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- FOR:** Any person who uses the Federal Register and Code of Federal Regulations.
- WHO:** The Office of the Federal Register.
- WHAT:** Free public briefings (approximately 3 hours) to present:
1. The regulatory process, with a focus on the Federal Register system and the public's role in the development of regulations.
 2. The relationship between the Federal Register and Code of Federal Regulations.
 3. The important elements of typical Federal Register documents.
 4. An introduction to the finding aids of the FR/CFR system.
- WHY:** To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

SAN FRANCISCO, CA

- WHEN:** November 29; at 9:00 a.m.
- WHERE:** Room 15138,
450 Golden Gate Avenue,
San Francisco, CA.
- RESERVATIONS:** Call Mary Walters at the San Francisco Federal Information Center, 415-556-6600.

SEATTLE, WA

- WHEN:** November 30; at 1:00 p.m.
- WHERE:** South Auditorium, 4th Floor,
915 2nd Avenue,
Seattle, WA.
- RESERVATIONS:** Call Carmen Meler or Peggy Groff at the Portland Federal Information Center on the following numbers:
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WASHINGTON, DC

- WHEN:** December 7, at 9:00 a.m.
- WHERE:** Office of the Federal Register,
First Floor Conference Room,
1100 L Street NW., Washington, DC.
- RESERVATIONS:** 202-523-5240.

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Title 3—

Executive Order 12696 of November 13, 1989

The President

President's Drug Advisory Council

By the authority vested in me as President by the Constitution and laws of the United States of America, and in order to establish, in accordance with the provisions of the Federal Advisory Committee Act, as amended (5 U.S.C. App. 2), an advisory committee to assist in the development, dissemination, explanation, and promotion of national drug control policy, it is hereby ordered as follows:

Section 1. Establishment. (a) There is established the President's Drug Advisory Council in the Federal Government. The Council shall be composed of not more than 30 members appointed by the President from among citizens in private life.

(b) The President shall designate a Chairman from among the members of the Council.

Sec. 2. Functions. (a) The Council shall recommend to and advise the President and the Director of National Drug Control Policy on developing methods and means to explain national drug control policies to the American people.

(b) The Council shall recommend to and advise the President and the Director of National Drug Control Policy on promotional efforts to encourage the private sector to implement national drug control policies.

(c) The Council shall study the feasibility of establishing a national support organization to help coordinate private sector initiatives to implement national drug control policies, and, in consultation with the President and the Director of National Drug Control Policy, shall provide advice to assist in the establishment of such support organization.

(d) The Council shall meet with and solicit the advice of various members of the media and communications field, and, in consultation with the President and the Director of National Drug Control Policy, shall provide advice in coordinating efforts of the private sector to inform the public of the dangers of illegal drug use.

(e) The Council shall devise means to solicit the views and advice of the American people regarding the development and implementation of national drug control policy. In consultation with the President and the Director of National Drug Control Policy, the Council shall utilize forums and seminars in various regions of the country to assist in this function.

(f) The Chairman of the Council shall report to the President and the Director of National Drug Control Policy, whenever requested.

Sec. 3. Administration. (a) Members of the Council shall serve without compensation.

(b) Members of the Council may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by law for persons serving intermittently in Government service (5 U.S.C. 5701-5707).

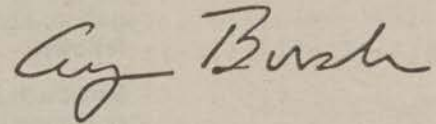
(c) The Office of National Drug Control Policy shall provide administrative staff support to the Council, to assist in its day-to-day operations.

(d) To the extent permitted by law, the heads of executive departments and agencies shall provide the Chairman of the Council, upon request, with such information as the Chairman may require for the purposes of carrying out the Council's functions.

Sec. 4. General Provisions. (a) Notwithstanding the provisions of any other Executive order, the functions of the President under the Federal Advisory Committee Act, as amended, except that of reporting to the Congress, which are applicable to the Council, shall be performed by the Director of National Drug Control Policy, in accordance with the guidelines and procedures established by the Administrator of General Services.

(b) The Council shall terminate 24 months from the date of this order, unless sooner extended.

THE WHITE HOUSE,
November 13, 1989.



[FR Doc. 89-27026

Filed 11-13-89; 4:25 pm]

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Editorial note: For the President's remarks on signing Executive Order 12696 and a White House announcement on the appointment of the Chairman and members of the Council, both dated Nov. 13, see the *Weekly Compilation of Presidential Documents* (vol. 25, no. 46).

Rules and Regulations

Federal Register

Vol. 54, No. 219

Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510. The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF AGRICULTURE

Farmers Home Administration

7 CFR Part 1956

Debt Settlement; Community and Business Programs

AGENCY: Farmers Home Administration, USDA.

ACTION: Interim rule with request for comments.

SUMMARY: The Farmers Home Administration (FmHA) amends its regulations governing the debt settlement of Community Program Loans. This action is necessary to comply with section 303, title III, of the "Disaster Assistance Act of 1989" (Pub. L. 101-82). The intended effect of this action is to allow Indian tribes and tribal corporations to make application for the reduction of the unpaid principal balances on loans to the current fair market value of the land purchased with the proceeds of FmHA loans.

DATES: Effective date: November 15, 1989. Written comments must be received on or before December 15, 1989.

ADDRESSES: Submit written comments, in duplicate, to the Office of the Chief, Directives and Forms Management Branch, Farmers Home Administration, U.S. Department of Agriculture, Room 6348, South Agriculture Building, Washington, DC 20250. All written comments made pursuant to this notice will be available for public inspection during regular work hours at the above address.

FOR FURTHER INFORMATION CONTACT: Harry B. Puffenberger, Senior Loan Officer, Program Management Branch, Community Facilities Division, Farmers Home Administration, U.S. Department of Agriculture, Room 6314, South

Agriculture Building, Washington, DC 20250; telephone (202) 382-1504.

SUPPLEMENTARY INFORMATION:

Classification

This section has been reviewed under USDA procedures established in Departmental Regulation 1512-1, which implements Executive Order 12291, and has been determined to be nonmajor. The proposed action is not likely to result in any of the following: (a) An annual effect on the economy of \$100 million or more, (b) a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions, or (c) significant adverse effects on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

Environmental Impact

This document has been reviewed in accordance with 7 CFR part 1940, subpart C, "Environmental Program." FmHA has determined that this action does not constitute a major Federal action significantly affecting the quality of the human environment, and in accordance with the National Environmental Policy Act of 1969 (Pub. L. 91-190) an Environmental Impact Statement is not required.

Intergovernmental Review

This action affects the following FmHA program as listed in the Catalog of Federal Domestic Assistance: No. 10.421, Indian Tribes and Tribal Corporation Loans.

Indian tribes and tribal corporations are exempt from the provisions of Executive Order 12372 which requires intergovernmental consultation with State and local officials.

Discussion of Interim Rule

It is the policy of this Department that rules relating to public property, loans, grants, benefits, or contracts shall be published for comment notwithstanding the exemption of 5 U.S.C. 553 with respect to such rules. However, FmHA is making this action effective immediately upon publication in the *Federal Register* without prior public comment. The purpose of this rule is to allow Indian tribes and tribal

corporations to make application for the reduction of the unpaid principal balances on loans to the current fair market value of the land purchased with the proceeds of FmHA loans.

The Department is well aware of the great financial stress which has been incurred by Indian tribes and tribal corporations because of the decrease in the value of their land. FmHA believes it is essential that the assistance, resulting in reducing the principal amount of these loans to current fair market value of the land purchased with loan proceeds, be made as soon as possible to lessen the impact of loss in economic benefit and to not have these borrowers incur further financial distress.

This interim rule is a response to an existing situation of decreasing land values, and while the Department is reluctant to bypass prior public comment, it is certain that failure to implement a mandated program at once will result in additional, significant economic harm to these borrowers.

Public comments will be accepted for 30 days and later revisions will be made to this interim rule if justified on the basis of comments received. This procedure will make assistance available now. The usual course of a proposed rule, comment period, comment analysis, and a final rule incorporating changes would inevitably mean a 60 to 90 day delay in making available assistance where it is most needed. Those seeking to comment and make suggestions for improvement should be advised that final action will occur as promptly as possible after the 30 day comment period.

List of Subjects in 7 CFR Part 1956

Accounting, Loan programs—Agricultural, Rural areas.

Accordingly, FmHA amends ch. XVIII, title 7, Code of Federal Regulations, as follows:

PART 1956—DEBT SETTLEMENT

1. The authority citation for part 1956 continues to read as follows:

Authority: 7 U.S.C. 1989; 42 U.S.C. 1480; 5 U.S.C. 301; 31 U.S.C. 3711; 7 CFR 2.23; 7 CFR 2.70.

Subpart C—Debt Settlement—Community and Business Programs

2. Section 1956.105 is amended by adding new paragraphs (j) and (k) to read as follows:

§ 1956.105 Definitions.

(j) *Independent Qualified Fee Appraiser.* An individual who is a designated member of the American Institute of Real Estate Appraisers, Society of Real Estate Appraisers, or an equivalent organization, requiring appraisal education, testing, and experience.

(k) *Indian Tribal Land Acquisition loans.* Loans which have been made under the Indian Land Acquisition Act to Indian tribes or tribal corporations recognized by the Secretary of the Interior, for the purchase of land within tribal reservations and Alaskan Communities. (25 U.S.C. 488)

3. Section 1956.137 is added to read as follows:

§ 1956.137 Adjustment of unpaid Principal—Indian Tribal Land Acquisition loans.

This section pertains exclusively to the reduction of unpaid principal on Indian Tribal Land Acquisition loans. (Pub. L. 101-82.)

(a) *Application by borrower.* Upon application by the borrower, the FmHA Administrator may adjust the unpaid principal balance only, on any loan or loans, to the current fair market value of the land purchased with the proceeds of the loans. A separate application will be made for each loan. To be eligible, each application must meet the following conditions:

(1) The current fair market value of the land has declined by at least 25 percent since the land was purchased by the borrower with FmHA loan funds. Current fair market value shall be determined through an appraisal by an independent qualified fee appraiser, as defined in § 1956.105(j) of this subpart and selected by mutual agreement between the borrower and FmHA. The borrower will submit its selection of an appraiser, together with the appraiser's qualifications, in writing, to FmHA for acceptance or rejection. The cost of the appraisal shall be paid by the borrower.

(2) The land has been held by the borrower for at least 5 years.

(3) The Secretary of Interior or designee finds, and states in writing to FmHA, that the borrower has insufficient income to both repay the loan or loans and provide normal tribal governmental services.

(b) *Review of application decision.* If an application is rejected, the borrower

may request a review of this decision under subpart B of part 1900 of this chapter.

(c) *Future applications.* A borrower that had a loan adjusted under this section shall not submit an application for another adjustment on the same loan for a period of 5 years from the date the last reduction became effective.

(d) *Processing.* All requests for principal adjustment will be forwarded to the National Office with the following information:

(1) Form FmHA 1956-1. Complete only parts I, II, VI, and VIII. Part VI, Debtors Offer and Certification, will be made in a separate attachment and contain the adjusted unpaid principal amount for which FmHA approval is requested. In part VI of the form, type "see attached."

(2) Letter from the Secretary of Interior or Designee. Reference to this letter should be made in part VIII of Form FmHA 1956-1.

(3) For first time requests, the State Director's determination of the appraised value of the land when the loan (or loans) was made and the current fair market value appraisal as determined by an independent qualified fee appraiser.

(4) For subsequent requests, the current and previous fair market value appraisal as determined by an independent qualified fee appraiser.

(5) Draft of Form FmHA 451-33, "Reamortization Request," if applicable. Upon concurrence by the National Office, the adjusted unpaid principal and outstanding accrued interest may be reamortized at the original note rate for the balance of the existing term of the note and in accordance with the other applicable provisions of subpart E of part 1951 of this chapter. The approved original of Form FmHA 1956-1 will be sent to the Finance Office together with a copy of Form FmHA 451-33 signed by the State Director.

4. Section 1956.150 is revised to read as follows:

§ 1956.150 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575-0124. Public reporting burden for this collection of information is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for

reducing this burden, to Department of Agriculture, Clearance Officer, OIRM, Room 404-W, Washington, DC 20250; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

Dated: October 13, 1989.

Michael C. Wilkinson,
Acting Administrator, Farmers Home Administration.

[FR Doc. 89-26752 Filed 11-14-89; 8:45 am]

BILLING CODE 3410-07-M

DEPARTMENT OF THE TREASURY**Office of Thrift Supervision****12 CFR Part 563**

[No. 89-282]

Equity-Risk Investments

Date: October 8, 1989.

AGENCY: Office of Thrift Supervision, Treasury.

ACTION: Final rule.

SUMMARY: The Office of Thrift Supervision ("Office") is hereby amending its equity-risk investment regulation, 12 CFR 563.9-8, by delaying the sunset date of that regulation from October 13, 1989 until July 13, 1990.

EFFECTIVE DATE: October 13, 1989.

FOR FURTHER INFORMATION CONTACT: Mary J. Hoyle, Regulatory Paralegal, (202) 906-7135, Regulations and Legislation Division, Office of General Counsel, Office of Thrift Supervision, 1700 G Street, NW, Washington, DC 20552.

SUPPLEMENTARY INFORMATION: On April 12, 1989, the Federal Home Loan Bank Board ("Board"), delayed the sunset of its equity-risk investment regulation from April 16, 1989 until October 13, 1989. See Board Res. No. 89-1319, 54 FR 15400 (April 18, 1989). This regulation, briefly, requires savings associations to obtain prior approval of their Principal Supervisory Agents (now District Directors), before making investments in equity securities, real estate, service corporations and operating subsidiaries above certain thresholds. These thresholds are tied to the regulatory and tangible capital levels of the savings association.

On August 9, 1989, the Financial Institutions Reform, Recovery and Enforcement Act of 1989 ("FIRREA"), Pub. L. 101-73, 103 Stat. 183, was enacted. Section 222 of FIRREA amended the Federal Deposit Insurance Act by adding a new section 28

addressing certain activities of savings associations. New section 28(c)(1), 12 U.S.C. 1838(c)(1), restricts the abilities of state-chartered savings associations to directly acquire or retain equity investments of a type or in an amount not permissible for a Federal savings association. Section 28(c)(2), 12 U.S.C. 1838(c)(2), provides a limited exception for investments by savings associations in service corporations. Section 28(c)(3) provides that the Federal Deposit Insurance Corporation ("FDIC") is to require savings associations to divert equity investments not permissible under those paragraphs (c)(1) and (c)(2) "as quickly as can be prudently done, and in any event not later than July 1, 1994." Section 28(i), 12 U.S.C. 1838(i), explicitly provides that "This section may not be construed as limiting * * * (2) any authority of the Director of the Office of Thrift Supervision * * * to impose more stringent restrictions." Section 301 of FIRREA amended the Home Owner's Loan Act of 1933 ("HOLA") by amending section 5 by adding a new paragraph (t) requiring the Office to establish, by regulation, uniform capital standards for savings associations. Paragraph 5(t)(1)(D) requires such regulations to be promulgated by no later than November 7, 1989 and effective not later than December 7, 1989. Paragraph 5(t)(5) of the HOLA requires those regulations to provide for the separate capitalization of certain subsidiaries of savings associations.

In delaying the sunset date of its equity-risk investment regulation in April, the Board noted the legislation then pending in Congress and stated "Any final legislation is likely to have a significant effect on investments covered by the current equity-risk investment regulation." 54 FR at 15401. As discussed above, the FIRREA does contain a number of provisions that will have such an effect, demonstrating Congress's concerns with the potential risks of such investments. The Office therefore believes that it is prudent once more to delay the sunset of this regulation. It is therefore delaying until July 13, 1990 the sunset of 12 CFR 563.9-8. This will ensure that any equity-risk investments, including investments permitted for Federal savings associations such as service corporations and subsidiaries, which are still permissible for state-chartered savings associations, receive careful scrutiny while the Office and the FDIC each review their separate, but related, new statutory responsibilities in this critical area.

The Office notes that when the Board requested public comment in December, 1988 upon the extension eventually adopted in April, 1989, it only received four comments, all favorable, on the issue. See 54 FR at 15400. The need for uninterrupted effective supervision of these investments constitutes good cause for dispensing with the notice and comment provisions of the Administrative Procedure Act, 5 U.S.C. 553. Because no substantive changes are being made to this regulation, which has been in effect since 1987, no delay in effective date is necessary to allow savings associations to become familiar with its provisions or to make adjustments in their conduct. Therefore, the Office finds that good cause exists for dispensing with the delayed effective date provisions of the Administrative Procedure Act.

Executive Order 12291

This final rule does not constitute a "major rule" and therefore, does not require the preparation of a final regulatory impact analysis.

Regulatory Flexibility Act

Because no notice of proposed rulemaking is required by the Administrative Procedure Act or any other statute, the provisions of the Regulatory Flexibility Act do not apply.

List of Subjects in 12 CFR Part 563

Advertising, Bank deposit insurance, Currency, Flood insurance, Investments, Reporting and recordkeeping requirements, Savings associations.

Accordingly, the Office of Thrift Supervision hereby amends part 563, subchapter D, chapter V, title 12, Code of Federal Regulations, as set forth below.

PART 563—OPERATIONS

1. The authority citation for 12 CFR part 563 continues to read as follows:

Authority: Sec. 2, 48 Stat. 128, as amended (12 U.S.C. 1462); sec. 3, as added by sec. 301, 103 Stat. 278 (12 U.S.C. 1462a); sec. 4, as added by sec. 301, 103 Stat. 280 (12 U.S.C. 1463); sec. 5, 48 Stat. 132, as amended (12 U.S.C. 1464); sec. 10, as added by sec. 301, 103 Stat. 342 (12 U.S.C. 1468); sec. 18, 64 Stat. 891, as amended by sec. 321, 103 Stat. 267 (12 U.S.C. 1828); sec. 1204, 101 Stat. 632 (12 U.S.C. 3806); sec. 202, 87 Stat. 892, as amended (42 U.S.C. 4106).

§ 563.9-8 [Amended]

2. Paragraph (h) of § 563.9-8 is amended by removing the date "October

13, 1989" and adding in lieu thereof the date "July 13, 1990".

M. Danny Wall,

Director, Office of Thrift Supervision.

[FR Doc. 89-26728 Filed 11-14-89; 8:45 am]

BILLING CODE 6720-01-M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. 89-CE-29-AD; Amdt. 39-6387]

Airworthiness Directives; Boeing of Canada Ltd. deHavilland Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, request for comments.

SUMMARY: This amendment adopts a new Airworthiness Directive (AD), applicable to Boeing of Canada Ltd., deHavilland Model DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 airplanes, which requires visual inspections of the elevator quadrant for distortion and the quadrant mounting support bracket for cracks. This action is prompted by a recent report of a cracked elevator quadrant mounting support bracket. This condition, if not corrected, could lead to loss of elevator control and loss of the airplane.

DATES: *Effective Date:* December 14, 1989. Comments for inclusion in the Rules Docket must be received on or before January 2, 1990.

Compliance: As prescribed in the body of the AD.

ADDRESSES: This AD is not predicated on manufacturer's data. Other information on Boeing of Canada Ltd., deHavilland Model DHC-6 airplanes is available from the manufacturer, Boeing of Canada, Ltd., deHavilland Division, Garratt Boulevard, Downsview, Ontario, Canada M3K 1Y5. Information pertaining to the issuance of this AD may be examined at the Rules Docket at the address below. Send comments on the AD in triplicate to the FAA, Central Region, Attention: Rules Docket No. 89-CE-29-AD, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64106. Comments may be inspected at this location between 8 a.m. and 4 p.m., Monday through Friday, holidays excepted.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Socias, Airframe Branch,

Aerospace Engineer, FAA, New England Region, New York Aircraft Certification Office, 181 South Franklin Avenue, Valley Stream, New York 11581; Telephone (516) 791-6220.

SUPPLEMENTARY INFORMATION: The FAA has received a report that a deHavilland Model DHC-6 airplane experienced an inflight loss of elevator control shortly after departure. An investigation has revealed that the airplane had been exposed to strong ground gusts which may have contributed to failure of the elevator quadrant mounting support bracket. As a result of this incident, Transport Canada, who has responsibility for and authority to maintain the continuing airworthiness of these airplanes in Canada, is in the process of drafting an Airworthiness Directive which proposes initial and recurring visual inspections of the elevator quadrant and the elevator quadrant mounting bracket. The FAA has evaluated this situation and the current actions of Transport Canada, and concurs that these actions are appropriate to prevent undetected damage from progressing to the point of failure.

Since the FAA has determined that the unsafe condition described herein is likely to exist or develop in other airplanes of the same type design, an AD is being issued requiring initial and recurrent visual inspections of the elevator quadrant and mounting bracket on Boeing of Canada, Ltd., deHavilland Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 airplanes. Because an emergency condition exists that requires the immediate adoption of this regulation, it is found that notice and public procedure hereon are impractical and contrary to the public interest, and good cause exists for making this amendment effective in less than 30 days.

Although this action is in the form of a final rule which involves requirements affecting immediate flight safety and, thus, was not preceded by notice and public procedure, comments are invited on this rule. Interested persons are invited to comment on this rule by submitting such written data, views, or arguments as they may desire. Communications should identify the regulatory docket number and be submitted in triplicate to the address specified above. All communications received on or before the closing date for comments will be considered and this rule may be amended in light of the comments received. Comments that provide a factual basis supporting the views and suggestions presented are particularly helpful in evaluating the

effectiveness of the AD and determining whether additional rulemaking is needed. Comments are specifically invited on the overall regulatory, economic, environmental, and energy aspects of the rule that might suggest a need to modify the rule. All comments submitted will be available, both before and after the closing date for comments, in the Rules Docket at the address given above. A report summarizing each FAA-public contact concerned with the substance of this AD, will be filed in the Rules Docket.

The regulations adopted herein will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The FAA has determined that this regulation is an emergency regulation and that it is not major under Executive Order 12291. It is impracticable for the agency to follow the procedures of Order 12291 with respect to this rule since the rule must be issued immediately to correct an unsafe condition in aircraft. It has been further determined that this document involves an emergency regulation under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979). If it is determined that this emergency regulation otherwise would be significant under DOT Regulatory Policies and Procedures, a final regulatory evaluation or analysis, as appropriate, will be prepared and placed in the regulatory docket (otherwise, an evaluation is not required). A copy of it, if filed, may be obtained by contacting the Rules Docket under the caption "ADDRESSES" at the location identified.

List of Subjects in 14 CFR Part 39

Air transportation Aircraft, Aviation safety, Safety.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, the Federal Aviation Administration amends part 39 of the Federal Aviation Regulations as follows:

PART 39—[AMENDED]

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 1354(a), 1421 and 1423; 49 U.S.C. 106(g) (Revised Pub. L. 97-449, January 12, 1983); and 14 CFR 11.89.

§ 39.13 [Amended]

2. By adding the following new AD: to § 39.13

Boeing of Canada Ltd., DeHavilland: Applies to Models DHC-6-1, DHC-6-100, DHC-6-200, and DHC-6-300 (all serial numbers) airplanes certificated in any category.

Compliance: Required as indicated in the body of the AD, unless previously accomplished.

To prevent loss of elevator control, accomplish the following:

(a) Within the next 25 hours time-in-service (TIS) after the effective date of this AD, and thereafter at intervals not to exceed 200 hours TIS, accomplish the following:

Note 1: When a parked Model DHC-6 airplane has been subjected to wind gusts of 35 mph or greater (including helicopter or jet blasts), new damage may occur to the elevator control system.

(1) Visually inspect the elevator quadrant, Part Number (P/N) C6CFM 1138-27, for distortion by viewing the quadrant from the forward or aft direction to detect warping or buckling, and by looking for score marks on the quadrant topside face due to constant rubbing against the side of the cable guard.

(2) If the elevator quadrant is found distorted, prior to further flight replace it with a serviceable part and reinspect the quadrant at 200 hours TIS intervals thereafter.

(3) Visually the elevator quadrant mounting support bracket, P/N C6CFM 1142-27, for cracks using a strong light and minimum four power magnifying glass.

Note 2: Pay particular attention to the outer and inner surfaces of the two lugs of the bracket.

(4) If the elevator quadrant support bracket is found cracked, prior to further flight replace it with a serviceable part.

(b) Airplanes may be flown in accordance with FAR 21.197 to a location where this AD may be accomplished.

(c) An alternate means of compliance or adjustment of the initial or repetitive compliance times which provides an equivalent level of safety may be approved by the Manager, New York Aircraft Certification Office, FAA, New England Region, Valley Stream, New York 11581.

Note 3: The request should be forwarded through an FAA Maintenance Inspector who may add comments and then send it to the Manager, New York Aircraft Certification Office.

All persons affected by this directive may examine the information pertaining to the issuance of this AD at the FAA, Central Region, Office of the Assistant Chief Counsel, Room 1558, 601 East 12th Street, Kansas City, Missouri 64108.

Issued in Kansas City, Missouri, on October 25, 1989.

Barry D. Clements,

Manager, Small Airplane Directorate,
Aircraft Certification Service.

[FR Doc. 89-26767 Filed 11-14-89; 8:45 am]

BILLING CODE 4910--M

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

29 CFR Part 1910

RIN 1218-AB26

Air Contaminants; Corrections

AGENCY: Occupational Safety and Health Administration; Labor.

ACTION: Final rule; corrections.

SUMMARY: This notice makes corrections to the preamble and final rule on Air Contaminants issued by OSHA which appeared in the *Federal Register* on January 19, 1989, at 54 FR 2331.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Mr. James Foster, Occupational Safety and Health Administration, Office of Information and Consumer Affairs, Room N-3647, U.S. Department of Labor, 200 Constitution Avenue NW., Washington, DC 20210, Telephone: (202) 523-8148.

SUPPLEMENTARY INFORMATION: OSHA published its final rule on Air Contaminants on January 19, 1989, at 54 FR 2331-2983. That rule amended 29 CFR 1910.1000 and its tables. On July 5, 1989, at 54 FR 28054-28061 OSHA published corrections to the preamble and the rule.

Certain additional errors have come to OSHA's attention. This document corrects those errors.

There are a number of errors in the printing of the exposure limit for iron oxide throughout both the proposal and final *Federal Register* documents. The preexisting limit in 29 CFR 1910.1000, Table Z-1 (1988 ed.) is "Iron oxide fume * * * 10 mg/m³". OSHA proposed to lower that limit to "5 mg/m³ for iron oxide dust and fume, measured as total particulate (Fe)." See 53 FR 21075 in the Proposal of June 7, 1988.

OSHA's final decision for iron oxide was to retain the former limit (29 CFR 1910.1000, Table Z-1 (1988)) of "Iron oxide fume * * * 10 mg/m³". OSHA stated "Accordingly, OSHA finds it appropriate to retain the Agency's former PEL for iron oxide * * *" (54 FR 2514, January 19, 1989). OSHA is correcting Table Z-4 accordingly in this

Correction Document. There is no benefit to clarity to formally correct the other places the limit was not stated accurately.

The final rule document published Thursday, January 19, 1989, at 54 FR 2332-2983, *Federal Register* Document No. 89-941, is corrected as follows:

Preamble

The following corrections are made to the Preamble:

1. On page 2669, Table C 15-1, the entry for "Beryllium & compounds" is corrected by revising the entry in the Former PEL column to read "See Table Z-2", by revising the entry in the Proposed PEL column to read "No Change" and revising the entry in the Final Rule PEL column to read "See Table Z-2".

Regulatory Text

The following correction is made to the authority citation for 29 CFR part 1910:

2. On page 2920, second column, the second and third paragraphs of the authority citation are corrected to read:

All of subpart Z issued under section 6(b) of the Occupational Safety and Health Act, 29 U.S.C. 655(b) except those substances listed in the Final Rule Limits columns of Table Z-1-A, which have identical limits listed in the Transitional Limits columns of Table Z-1-A, Table Z-2 or Table Z-3. The latter were issued under section 6(a) (29 U.S.C. 655(a)).

Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 also issued under 5 U.S.C. 553. Section 1910.1000, the Transitional Limits columns of Table Z-1-A, Table Z-2 and Table Z-3 not issued under 29 CFR part 1911 except for the arsenic, benzene, cotton dust, and formaldehyde listings.

The following corrections are made to 29 CFR 1910.1000:

§ 1910.1000 [Amended]

3. On page 2940, Table Z-1-A, the entry in the Substance column, "Iron oxide dust and fume (as Fe) total particulate" is corrected to read "Iron oxide fume".

4. On page 2948, Table Z-1-A, the entry for "Petroleum distillates (Naphtha)" is corrected by removing the CAS Number.

5. On page 2951, Table Z-1-A, the entry for "Silica, amorphous, precipitated and gel" is corrected by inserting the CAS No. of "112926-00-8".

Signed at Washington, DC, this 3rd day of November 1989.

Gerard F. Scannell,

Assistant Secretary.

[FR Doc. 89-26786 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-26-M

PENSION BENEFIT GUARANTY CORPORATION

29 CFR Part 2619

Valuation of Plan Benefits in Single-Employer Plans; Amendment Adopting Additional Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This amendment to the regulation on Valuation of Plan Benefits in Single-Employer Plans contains the interest rates and factors for the period beginning December 1, 1989. The use of these interest rates and factors to value benefits is mandatory for some terminating single-employer pension plans and optional for others. The Pension Benefit Guaranty Corporation adjusts the interest rates and factors periodically to reflect changes in financial and annuity markets. This amendment adopts the rates and factors applicable to plans that terminate on or after December 1, 1989, and will remain in effect until the PBGC issues new interest rates and factors.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: J. Ronald Goldstein, Senior Counsel, Office of the General Counsel, Code 22500, Pension Benefit Guaranty Corporation, 2020 K Street NW., Washington, DC 20006, 202-778-8824 (202-778-8859 for TTY and TDD only). These are not toll-free numbers.

SUPPLEMENTARY INFORMATION: The Pension Benefit Guaranty Corporation's ("PBGC's") regulation on Valuation of Plan Benefits in Single-Employer Plans (29 CFR part 2619) sets forth the methods for valuing plan benefits of terminating single-employer plans covered under title IV of the Employee Retirement Income Security Act of 1974, as amended ("ERISA"). The recent amendments to title IV made by the Pension Protection Act ("PPA"), a part of the Omnibus Budget Reconciliation Act of 1987, increase the amount of plan benefits for which an employer is responsible upon plan termination. These new termination rules apply to plan terminations with respect to which the 60-day advance notice to affected parties (the notice of intent to terminate) is issued after December 17, 1987. (For more detail, see the PBGC's Notice of Revised Termination Rules, 53 FR 1905 (January 22, 1988).) However, the PPA does not change the title IV valuation rules.

Under amended ERISA section 4041(c), all plans wishing to terminate in

a distress termination must value guaranteed benefits and "benefit liabilities", i.e., all benefits provided under the plan as of the plan termination date, using the formulas set forth in part 2619. Plans terminating in a standard termination may, for purposes of the notice given to the PBGC, use these formulas to value benefit liabilities, although this is not required. (Such plans may value benefit liabilities that are payable as annuities on the basis of a qualifying bid obtained from an insurer.)

Plans that terminate on or after January 1, 1986 (the effective date of the Single-Employer Pension Plan Amendments Act of 1986) and issued notices of intent to terminate prior to December 18, 1987, or against which the PBGC instituted involuntary termination proceedings before that date, shall continue to be responsible for benefit commitments under the plan and to value guaranteed benefits and/or benefit commitments.

Appendix B in part 2619 sets forth the interest rates and factors that are to be used in the formulas contained in the regulation. Because these rates and factors are intended to reflect current conditions in the financial and annuity markets, it is necessary to update the rates and factors periodically.

The rates and factors currently in use have been in effect since October 1, 1989 (54 FR 38225 (September 15, 1989)). This amendment adds to Appendix B a new

set of interest rates and factors for valuing benefits in plans that terminate on or after December 1, 1989, which set reflects a decrease of $\frac{1}{4}$ percent in the immediate interest rate of $7\frac{1}{4}$ percent.

Generally, the interest rates and factors will be in effect for at least one month. However, any published rates and factors will remain in effect until such time as the PBGC publishes another amendment changing them. Any change in the rates normally will be published in the *Federal Register* by the 15th of the month preceding the effective date of the new rates or as close to that date as circumstances permit.

The PBGC has determined that notice and public comment on this amendment are impracticable and contrary to the public interest. This finding is based on the need to determine and issue new interest rates and factors promptly so that the rates can reflect, as accurately as possible, current market conditions.

Because of the need to provide immediate guidance for the valuation of benefits in plans that will terminate on or after December 1, 1989, and because no adjustment by ongoing plans is required by this amendment, the PBGC finds that good cause exists for making the rates set forth in this amendment effective less than 30 days after publication.

The PBGC has determined that this is not a "major rule" under the criteria set forth in Executive Order 12291, because it will not result in an annual effect on

the economy of \$100 million or more, a major increase in costs for consumers or individual industries, or significant adverse effects on competition, employment, investment, productivity, or innovation.

List of Subjects in 29 CFR Part 2619

Employee benefit plans, Pension insurance, Pensions.

In consideration of the foregoing, part 2619 of Chapter XXVI, Title 29, Code of Federal Regulations, is hereby amended as follows:

PART 2619—[AMENDED]

1. The authority citation for part 2619 continues to read as follows:

Authority: 29 U.S.C. 1301(a), 1302(b)(3), 1341, 1344, 1362, as amended by secs. 9312-13, Pub. L. 100-203, 101 Stat. 1330.

2. Rate Set 81 of Appendix B is revised and Rate Set 82 of Appendix B is added to read as follows: The introductory text is republished for the convenience of the reader and remains unchanged.

Appendix B—Interest Rates and Quantities Used to Value Immediate and Deferred Annuities

In the table that follows, the immediate annuity rate is used to value immediate annuities, to compute the quantity "Cy" for deferred annuities and to value both portions of a refund annuity. An interest rate of 5% shall be used to value death benefits other than the decreasing term insurance portion of a refund annuity. For deferred annuities k_1 , k_2 , k_3 , n_1 , and n_2 , are defined in § 2619.45.

Rate set	For plans with a valuation date		Immediate annuity rate (percent)	Deferred annuities				
	On or after	Before		k_1	k_2	k_3	n_1	n_2
81.....	10-1-89	12-1-89	7.50	1.0675	1.0550	1.0400	7	8
82.....	12-1-89		7.25	1.0650	1.0525	1.0400	7	8

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.
[FR Doc. 89-26782 Filed 11-14-89; 8:45 am]
BILLING CODE 7708-01-M

29 CFR Part 2676

Valuation of Plan Benefits and Plan Assets Following Mass Withdrawal; Interest Rates

AGENCY: Pension Benefit Guaranty Corporation.

ACTION: Final rule.

SUMMARY: This is an amendment to the Pension Benefit Guaranty Corporation's regulation on Valuation of Plan Benefits

and Plan Assets Following Mass Withdrawal (29 CFR part 2676). The regulation prescribes rules for valuing benefits and certain assets of multiemployer plans under sections 4219(c)(1)(D) and 4281(b) of the Employee Retirement Income Security Act of 1974. Section 2676.15(c) of the regulation contains a table setting forth, for each calendar month, a series of interest rates to be used in any valuation performed as of a valuation date within that calendar month. On or about the fifteenth of each month, the PBGC publishes a new entry in the table for the following month, whether or not the rates are changing. This amendment adds to the table the rate series for the month of December 1989.

EFFECTIVE DATE: December 1, 1989.

FOR FURTHER INFORMATION CONTACT: Deborah C. Murphy, Attorney, Office of the General Counsel (22500), Pension Benefit Guaranty Corporation, 2020 K Street W., Washington, DC 20006; 202-778-8820 (202-778-8859 for TTY and TDD). (These are not toll-free numbers.)

SUPPLEMENTARY INFORMATION: The PBGC finds that notice of and public comment on this amendment would be impracticable and contrary to the public interest, and that there is good cause for making this amendment effective immediately. These findings are based on the need to have the interest rates in this amendment reflect market conditions that are as nearly current as

possible and the need to issue the interest rates promptly so that they are available to the public before the beginning of the period to which they apply. (See 5 U.S.C. 533 (b) and (d).) Because no general notice of proposed rulemaking is required for this amendment, the Regulatory Flexibility Act of 1980 does not apply (5 U.S.C. section 601(2)).

The PBGC has also determined that this amendment is not a "major rule" within the meaning of Executive Order 12291 because it will not have an annual effect on the economy of \$100 million or more; or create a major increase in costs

or prices for consumers, individual industries, or geographic regions; or have significant adverse effects on competition, employment, investment, or innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 29 CFR Part 2676

Employee benefit plans, Pensions.

In consideration of the foregoing, part 2676 of Subchapter H of Chapter XXVI of Title 29, Code of Federal Regulations, is amended as follows:

PART 2676—VALUATION OF PLAN BENEFITS AND PLAN ASSETS FOLLOWING MASS WITHDRAWAL

1. The authority citation for part 2676 continues to read as follows:

Authority: 29 U.S.C. 1302(b)(3), 1399(c)(1)(D), and 1441(b)(1).

2. In § 2676.15, paragraph (c) is amended by adding to the end of the table of interest rates therein the following new entry:

§ 2676.15 Interest.

* * * * *

(c) Interest rates.

For valuation dates occurring in the month—	The values of i_K are—														
	i_1	i_2	i_3	i_4	i_5	i_6	i_7	i_8	i_9	i_{10}	i_{11}	i_{12}	i_{13}	i_{14}	i_{15}
December 1989.....	.0825	.08	.0775	.075	.0725	.07	.07	.07	.07	.07	.065	.065	.065	.065	.05875

Issued at Washington, DC, on this 7th day of November 1989.

James B. Lockhart III,
Executive Director, Pension Benefit Guaranty Corporation.

[FR Doc. 89-26781 Filed 11-14-89; 8:45 am]

BILLING CODE 7708-01-M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 199

[DoD Regulation 6010.8-R]

Civilian Health and Medical Program of the Uniformed Services (CHAMPUS); Codification Correction

AGENCY: Office of the Secretary, DoD.

ACTION: Final rule; codification correction.

SUMMARY: This final rule corrects erroneous amendatory language that appeared at 53 FR 34290, September 6, 1988, regarding the CHAMPUS per diem based payment method for mental health services in psychiatric hospitals and units.

ADDRESSES: Office of the Assistant Secretary of Defense for Health Affairs (Health Program Management), Room 1B657, Pentagon, Washington, DC. 20301-1200.

FOR FURTHER INFORMATION CONTACT: Lt. Commander Arthur Miller, telephone (202) 695-3331.

SUPPLEMENTARY INFORMATION: In preparing a codification of 32 CFR

199.14, Provider reimbursement methods, an error was discovered in the amendatory language in a final rule published September 6, 1988 53 FR 34285. That final rule established a new method of paying for mental health care in psychiatric hospitals and units. Most of the substance of that rule took the form of a new paragraph (a)(2) in § 199.14. The amendatory language that prefaced the new paragraph (a)(2) included a direction to redesignate what was believed to be a pre-existing paragraph (a)(2) as paragraph (a)(3) and to amend the introductory text of the newly designated paragraph (a)(3). It has now been determined that the provision that was believed to have been designated as paragraph (a)(2) prior to that final rule had actually been designated as paragraph (a)(1)(iv)(D)(3). Thus, the amendatory language that referred to what was believed to be a pre-existing paragraph (a)(2) was erroneous. This final rule is a codification correction to correct the erroneous amendatory language. The actual regulatory provisions inserted into § 199.14 by the September 6 final rule remain unchanged. Only the amendatory language which appeared as amendment number 4 in the September 6, 1988, final rule is revised, as follows:

"4. Section 199.14 is amended by adding a new paragraph (a)(2), by redesignating paragraph (a)(1)(iv)(D)(3) as paragraph (a)(3) and by revising the introductory text of the newly designated paragraph (a)(3) as follows:

Dated: November 9, 1989.

Linda Bynum,

OSD Federal Register Alternate Liaison Officer, Department of Defense.

[FR Doc. 89-26778 Filed 11-14-89; 8:45 am]

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DEPARTMENT OF COMMERCE

Patent and Trademark Office

37 CFR Part 1

[Docket No. 81024-9224]

RIN 0651-AA30

Revision of Patent Application Filing Practices

AGENCY: Patent and Trademark Office, Commerce.

ACTION: Final rule.

SUMMARY: The Patent and Trademark Office (Office) is amending the rules of practice in patent cases, part 1 of title 37, Code of Federal Regulations, to clarify requirements in the filing of patent applications and to provide for procedures to cure certain defects in the filing of applications.

EFFECTIVE DATE: January 16, 1990.

FOR FURTHER INFORMATION CONTACT: J. Michael Thesz by telephone at (703) 557-8384 or by mail marked to his attention and addressed to the Commissioner of Patents and Trademarks, Washington, DC 20231.

SUPPLEMENTARY INFORMATION: Proposed rulemaking requesting comments was published on November 30, 1988 in the Federal Register at 53 FR 48402-48421

and on December 13, 1988 in the "Official Gazette" at 1097 O.G. 16-35 regarding adjusting patent and trademark fee amounts and including proposed changes to the rules involved in this rulemaking. The period for receiving comments on the rules involved in this rulemaking was extended by a notice published on February 15, 1989 in the *Federal Register* at 54 FR 6936. The final rules adjusting patent and trademark fee amounts were published on February 15, 1989 in the *Federal Register* at 54 FR 6893-6910 and on March 7, 1989 in the "Official Gazette" at 1100 O.G. 7-25.

Comments on the rules involved in this rulemaking were received from two patent law associations and from three individuals. The comments received relating to particular sections and replies thereto are listed below.

Comments Related to § 1.53

Comment

One comment suggested that it would be helpful to new practitioners, in particular, if § 1.53 was amended to specify that continuation and divisional applications may be filed under § 1.53.

Reply

The suggestion in the comment has been adopted. Language has been added to paragraph (b) of § 1.53 to specify what types of applications may be filed under §§ 1.53, 1.60 and 1.62. Also, the information about filing continuation and divisional applications from paragraph (a) of § 1.60 has been placed in paragraph (b) of that section to clarify that the information applies only to applications filed under § 1.60.

Comment

One comment stated support for the proposed petition for correcting a failure to name the inventors of an application on filing but suggested that the rule should be "liberalized to indicate that the inventors do not need to be named at the time the application is filed, but may be named later when filing the declaration or oath." Another comment expressed no opposition for requiring a petition and fee for late submission of the names of the inventors but argued that a filing date should be granted regardless thereof since 35 U.S.C. 111 provides for a filing date upon submission of a specification and drawing.

Reply

This suggested modification to the rule has not been adopted. The suggested modification was not proposed for comment.

Further, United States patent practice has long required naming all the inventors on filing. The petition procedure of the rule as amended provides adequate relief where the inventors are not named on filing through administrative oversight, for example. It is not appropriate, however, to adopt a procedure where applications could routinely be filed without naming the inventors since this would delay the processing of the applications and since the name of the inventor is often required to provide a unique identifier for an application. The name of the inventor is not only used by attorneys to identify an application but is used to locate an application within the Office, for example, when the serial number is unknown. To delay the date when the inventors are named would unduly add to the administrative burden of the Office.

Comment

One comment stated that the proposed requirement for satisfactorily explaining the delay in supplying the inventors' names was improper since 35 U.S.C. 111 uses the language "within such period and under such conditions" as may be prescribed by the Commissioner. The comment stated that "satisfactorily" implies other and unknown standards, which are not specified conditions although requiring the petitioner to explain the delay is a condition.

Reply

The comment has been adopted in that the language of the final rule does not use "satisfactorily". The final rule requires that the petition set forth the reasons the delay in supplying the names of the inventors should be excused. It is appropriate to require reasons since there may be reasons when such a petition would not be granted, e.g., where the sole reason given that the names of the inventors were not supplied was to purposely delay the processing of the application.

Comments Related to § 1.60

Comment

One comment questioned whether under § 1.60 there is need for a petition satisfactorily explaining the delays in filing the true copy of the application or a statement that it is a true copy or whether these items should be permitted to be filed without explanation as in the case of an oath submitted after the filing date of an application under § 1.53.

Reply

The filing of an oath later than the filing date of an application, with the payment of a surcharge, under § 1.53 is expressly permitted by 35 U.S.C. 111. No such provision exists for applications filed under § 1.60. Further, it is not appropriate to encourage, in any way, the delay in processing and examining applications filed under § 1.60. The requirement for a petition with a satisfactory explanation of the delay, e.g., that the copy was omitted through inadvertence rather than for purposes of delaying the application, is considered to be appropriate.

Comment Related to §§ 1.60 and 1.62

Comment

One comment supported the provisions of proposed §§ 1.60 and 1.62 for excusing (1) the failure to file a true copy of the prior application or the statement that the papers are a true copy (in § 1.60) or (2) the error of filing a copy of the prior application or a new specification (in § 1.62). The comment, however, stated a belief that applicants should have the option of proceeding under either of these proposed rules or under § 1.53 to obtain as the filing date the original date of receipt of the continuing application papers, if desired.

Reply

It is already possible for an applicant to petition under 37 CFR 1.182 to have an application filed under §§ 1.60 and 1.62 converted to an application under § 1.53. These different types of applications have different requirements, are reviewed by different personnel within the Office, and are processed in different manners. Conversion from a § 1.60 or 1.62 application to a § 1.53 application involves an administrative burden to the Office. Sections 1.60 and 1.62 as amended provide specific procedures so that applicants can correct the mentioned errors. These procedures should provide the remedy desired by applicants in all but very unusual situations. It is not necessary or appropriate to try to address these very unusual situations in this rulemaking.

Comments Related to § 1.62

Comment

One comment suggested that § 1.62(e) should refer to an amendment to the prior application as it exists "at the time of filing of the application under this section" rather than the time of filing the prior application.

Reply

The language suggested in the comment has been adopted.

Comment

One comment questioned whether a petition and fee or denial of filing date were necessary where a copy of a specification from the prior application or a new specification is improperly filed with an application under § 1.62. The comment suggested that a clerk could simply disregard the copy or the specification and place it somewhere in the file with some sort of notation that it is not accepted.

Reply

Changes to the prior application when filing under § 1.62 must be made by amendment to the prior application as it exists at the time of filing the § 1.62 application since the papers from the prior application including the specification are used to constitute the file wrapper continuing application under 37 CFR 1.62. Experience has shown that, when a copy of a specification or a new specification is filed with a § 1.62 application, a different type of application may have actually been desired. For example, a continuing application under § 1.60 may have been desired with the prior application not being expressly abandoned as occurs under § 1.62(g). Also, in the case of a continuation-in-part application, presumably the new disclosure would be contained in the specification erroneously filed with the § 1.62 application. Thus, it is not appropriate to just disregard the copy or the new specification filed with the § 1.62 application. To do so in the first example would result in an unwanted express abandonment. To do so in the second example would disregard the new invention disclosed in the erroneously filed specification. This would raise the possibility of a statutory bar under 35 U.S.C. 102(b) arising if, for example, the new invention was placed on sale in expectation that a filing date would be accorded to the application including the new disclosure. The course of action adopted is to stop the processing of the application as soon as the error is detected, to notify applicant of the error and to give applicant an opportunity to correct the error in whatever way was intended through the filing of a petition and fee.

Comment

One comment questioned whether an amendment, and not a petition, cancelling an improperly submitted copy of a specification filed with a request for

a § 1.62 application would be appropriate to obtain a filing date as of the original date of filing the continuing application papers.

Reply

Paragraph (j) of § 1.62 does provide for correction of the filing error, e.g., by amendment cancelling the copy of the prior application, without the filing of a petition and fee provided the correction is made before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application. In such a case, the filing date will be the date of receipt of the correction. However, if the date of deposit is necessary or desired as the filing date, a petition and fee are required. This is appropriate in view of the extra Office handling and processing which is necessitated by applicant's error on filing.

Comment

One comment stated that proposed paragraphs (e) and (j) of § 1.62, when read together, seemed to indicate that a filing date would be granted as of the date the filing error was corrected and not as of the date of deposit of the application. It was suggested that paragraph (e) should expressly state that once the specification is cancelled, the application will be accorded a filing date as of the date of filing of the request for the § 1.62 application.

Reply

The suggestion in the comment has been adopted. Language has been added to § 1.62(e) to state that a filing date "as of the date of deposit of the request for an application under this section" may be granted if an appropriate petition is filed.

Discussion of specific rules

Section 1.17, paragraph (i)(1), is amended to include reference to the petitions set forth in §§ 1.53, 1.60 and 1.62 by this rulemaking.

Section 1.21, as amended, adds a new paragraph (n) setting forth the fee for handling incomplete or improper applications under §§ 1.53(c), 1.60 and 1.62.

Section 1.53, paragraph (b), is amended to establish a procedure whereby the failure to name all the inventors on filing an application, which results in a filing date not being accorded to the application, can be excused upon the filing of a petition which sets forth reasons sufficient to show that the delay in supplying the names should be excused. If the petition is granted, the application would be accorded a filing date as of the date the

original papers were deposited. No specific provision allowing this relief was previously in the rules. Paragraph (b) is also amended to specify that a continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) may be filed under §§ 1.53, 1.60 and 1.62, that a continuation-in-part application may be filed under §§ 1.53 or 1.62 and that the requirements for obtaining a filing date set forth in paragraph (b) apply to applications filed under § 1.53. Paragraph (c), as amended, sets forth the procedure which the Office uses to notify an applicant that the names of the inventors have been omitted and refers to the handling fee set in § 1.21(n), rather than including the fee amount in the rule. This practice is consistent with the other rules which refer to fees.

Section 1.55, paragraph (a), is amended to clarify the language of the rule by adding "an" before "interference".

Section 1.60 is amended to remove and reserve paragraph (a) and to amend paragraph (b) to include the information presently in paragraph (a) so as to clarify that the information applies only to applications filed under this section. Paragraph (b) is also amended to require that an applicant, who desires to file an application under the rule, indicate that the application is being filed pursuant to the rule. Applications which are not specifically designated as being filed under § 1.60 are considered as having been filed under § 1.53, which does not require an originally executed declaration before a filing date is given. The amendment also establishes a procedure whereby the failure to file a true copy of the prior application or the statement that the papers are a true copy, which results in a filing date not being accorded the application, can be excused upon the filing of a petition satisfactorily explaining the delay in filing these items. If the petition is granted, the application would be accorded a filing date as of the date of deposit of the request for a § 1.60 application. No specific provision allowing this relief was previously in the rules. Paragraph (c) is added to set forth the procedure which the Office uses to notify an applicant that an application filed under paragraph (b) is incomplete and the handling fee which is deducted from the amount refunded if an application is not completed after notice to do so has been given.

Section 1.62, paragraph (e), is amended to specifically state that changes to the prior application must be made by an amendment to the prior application filed in the application under

§ 1.62. An application which includes a copy of the prior application or a new specification is improper under the rule and is not accorded the date of deposit as the filing date unless a petition is filed and granted. This specific statement will hopefully eliminate errors by applicants. The paragraph establishes a procedure whereby such an error can be excused upon the filing of a petition with instructions to cancel the copy or specification. If the petition is granted, the application will be accorded a filing date as of the date of deposit of the request for a § 1.62 application. Paragraph (j) sets forth the procedure which the Office uses to notify the applicant that an application filed under the section is improper and the handling fee which is deducted from the amount refunded if an application is not corrected after notice to do so has been given.

Section 1.96 is amended to indicate that a copy of the microfiche appendix with computer program listings in an application is a part of the file wrapper and contents available for purchase after a patent based on the application is granted or the application is otherwise made publicly available.

Other Considerations

The rule change is in conformity with the requirements of the Regulatory Flexibility Act (Pub. L. 96-354), Executive Orders 12291 and 12612, and the Paperwork Reduction Act of 1980, 44 U.S.C. 3501 et seq. This rule involves information collection requirements subject to the Paperwork Reduction Act and approved by the Office of Management and Budget under Control No. 0651-0011.

The Office has determined that this notice has no Federalism implications affecting the relationship between the National Government and the States as outlined in Executive Order 12612.

The General Counsel of the Department of Commerce has certified to the Chief Counsel for Advocacy, Small Business Administration, that the rule change will not have a significant adverse economic impact on a substantial number of small entities (Regulatory Flexibility Act, Pub. L. 96-354).

The Office has determined that this rule change is not a major rule under Executive Order 12291. The annual effect on the economy will be less than \$100 million. There will be no major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. There will be no significant adverse effects on competition, employment, investment,

productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

List of Subjects in 37 CFR Part 1

Administrative practice and procedure, Courts, Freedom of information, Inventions and patents, Reporting and recordkeeping requirements, Small businesses.

For the reasons given in the preamble and pursuant to the authority granted to the Commissioner of Patents and Trademarks by 35 U.S.C. 6 and 41, and Public Law 97-247, the Office is amending title 37 of the Code of Federal Regulations as set forth below.

PART 1—RULES OF PRACTICE IN PATENT CASES

1. The authority citation for 37 CFR part 1 would continue to read as follows:

Authority: 35 U.S.C. 6 unless otherwise noted.

2. Section 1.17 is amended by revising paragraph (i)(1) to read as follows:

§ 1.17 Patent application processing fees.

* * * * *

(i)(1) For filing a petition to the Commissioner under a section of this part listed below which refers to this paragraph..... \$120.00

§ 1.12—for access to an assignment record.

§ 1.14—for access to an application.

§ 1.53—to accord a filing date.

§ 1.55—for entry of late priority papers.

§ 1.60—to accord a filing date.

§ 1.62—to accord a filing date.

§ 1.103—to suspend action in application.

§ 1.177—for divisional reissues to issue separately.

§ 1.312—for amendment after payment of issue fee.

§ 1.313—to withdraw an application from issue.

§ 1.314—to defer issuance of a patent.

§ 1.334—for patent to issue to assignee, assignment recorded late.

§ 1.666(b)—for access to interference settlement agreement.

* * * * *

3. Section 1.21 is amended by adding paragraph (n) to read as follows:

§ 1.21 Miscellaneous fees and charges.

* * * * *

(n) For handling an incomplete or improper application under § 1.53(c), § 1.60 or § 1.62..... \$20.00.

4. Section 1.53 is amended by revising paragraphs (b) and (c) to read as follows:

§ 1.53 Serial number, filing date, and completion of application.

* * * * *

(b) The filing date of an application for patent filed under this section is the date on which: (1) A specification containing a description pursuant to § 1.71 and at least one claim pursuant to § 1.75; and (2) any drawing required by § 1.61(a), are filed in the Patent and Trademark Office in the name of the actual inventor or inventors as required by § 1.41. No new matter may be introduced into an application after its filing date (§ 1.118). If all the names of the actual inventor or inventors are not supplied when the specification and any required drawing are filed, the application will not be given a filing date earlier than the date upon which the names are supplied unless a petition with the fee set forth in § 1.17(i)(1) is filed which sets forth the reasons the delay in supplying the names should be excused. A continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) may be filed pursuant to this section, § 1.60 or § 1.62. A continuation-in-part application may be filed pursuant to this section or § 1.62.

(c) If any application is filed without the specification, drawing or name, or names, of the actual inventor or inventors required by paragraph (b) of this section, applicant will be so notified and given a time period within which to submit the omitted specification, drawing, name, or names, of the actual inventor, or inventors, in order to obtain a filing date as of the date of filing of such submission. A copy of the "Notice of Incomplete Application" form notifying the applicant should accompany any response thereto submitted to the Office. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

* * * * *

5. Section 1.55 is amended by revising paragraph (a) to read as follows:

§ 1.55 Claim for foreign priority.

(a) An applicant may claim the benefit of the filing date of a prior foreign

application under the conditions specified in 35 U.S.C. 119 and 172. The claim to priority need be in no special form and may be made by the attorney or agent if the foreign application is referred to in the oath or declaration as required by § 1.63. The claim for priority and the certified copy of the foreign application specified in the second paragraph of 35 U.S.C. 119 must be filed in the case of an interference (§ 1.630); when necessary to overcome the date of a reference relied upon by the examiner; or when specifically required by the examiner; and in all other cases they must be filed not later than the date the issue fee is paid. If the papers filed are not in the English language, a translation need not be filed except in the three particular instances specified in the preceding sentence, in which event a sworn translation or a translation certified as accurate by a sworn or official translator must be filed. If the priority papers are submitted after the date the issue fee is paid, they must be accompanied by a petition requesting their entry and the fee set forth in § 1.17(i)(1).

6. Section 1.60 is amended by removing and reserving paragraph (a) and revising paragraph (b) and adding new paragraph (c) to read as follows:

§ 1.60 Continuation or divisional application for invention disclosed in a prior application.

(a) [Reserved]

(b) An applicant may omit signing of the oath or declaration in a continuation or divisional application (filed under the conditions specified in 35 U.S.C. 120 or 121 and § 1.78(a)) if (1) the prior application was a complete application as set forth in § 1.51(a), (2) applicant indicates that the application is being filed pursuant to this section and files a true copy of the prior complete application as filed including the specification (including claims), drawings, oath or declaration showing the signature or an indication it was signed, and any amendments referred to in the oath or declaration filed to complete the prior application, (3) the inventors named in the continuation or divisional application are the same or less than all the inventors named in the prior application, and (4) the application is filed before the patenting or abandonment of or termination of proceedings on the prior application. The copy of the prior application must be accompanied by a statement that the application papers filed are a true copy of the prior application and that no amendments referred to in the oath or declaration filed to complete the prior

application introduced new matter therein. Such statement must be by the applicant or applicant's attorney or agent and must be a verified statement if made by a person not registered to practice before the Patent and Trademark Office. Only amendments reducing the number of claims or adding a reference to the prior application (§ 1.78(a)) will be entered before calculating the filing fee and granting the filing date. If the continuation or divisional application is filed by less than all the inventors named in the prior application, a statement must accompany the application when filed requesting deletion of the names of the person or persons who are not inventors of the invention being claimed in the continuation or divisional application. If a true copy of the prior application as filed is not filed with the application or if the statement that the application papers are a true copy is omitted, the application will not be given a filing date earlier than the date upon which the copy and statement are filed, unless a petition with the fee set forth in § 1.17(i)(1) is filed which satisfactorily explains the delay in filing these items.

(c) If an application filed pursuant to paragraph (b) of this section is incomplete, applicant will be notified and given a time period within which to complete the application in order to obtain a filing date as of the date of filing the omitted item provided the omitted item is filed before the patenting or abandonment of or termination of proceedings on the prior application. If the omission is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

7. Section 1.62 is amended by revising paragraph (e) and by adding a new paragraph (j) to read as follows:

§ 1.62 File wrapper continuing procedure.

(e) An application filed under this section will utilize the file wrapper and contents of the prior application to constitute the new continuation, continuation-in-part, or divisional application but will be assigned a new application serial number. Changes to the prior application must be made in the form of an amendment to the prior application as it exists at the time of filing the application under this section. No copy of the prior application or new specification is required. The filing of such a copy or specification will be considered improper, and a filing date as of the date of deposit of the request for an application under this section will not be granted to the application unless

a petition with the fee set forth in § 1.17(i)(1) is filed with instructions to cancel the copy or specification.

(j) If any application filed under this section is found to be improper, the applicant will be notified and given a time period within which to correct the filing error in order to obtain a filing date as of the date the filing error is corrected provided the correction is made before the payment of the issue fee, abandonment of, or termination of proceedings on the prior application. If the filing error is not corrected within the time period set, the application will be returned or otherwise disposed of; the fee, if submitted, will be refunded less the handling fee set forth in § 1.21(n).

8. Section 1.96 is amended by revising paragraph (b)(1) to read as follows:

§ 1.96 Submission of computer program listings.

(b) * * *

(1) *Availability of appendix.* Such computer program listings on microfiche will be available to the public for inspection, and microfiche copies thereof will be available for purchase with the file wrapper and contents, after a patent based on such application is granted or the application is otherwise made publicly available.

Dated: November 6, 1989.

Jeffrey M. Samuels,

Acting Commissioner of Patents and Trademarks.

[FR Doc 89-26779 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-16-M

POSTAL SERVICE

39 CFR Part 233

Procedure for Forfeitures Under Drug and Money Laundering Laws

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: At the present time, postal regulations establishing procedures for administrative forfeitures are limited to forfeitures under the Protection of Children Against Sexual Exploitation Act of 1977 and the Child Protection Act of 1984. To implement more recent authority, the Postal Service is publishing this final rule prescribing procedures for postal administrative forfeitures under the Controlled Substances Act and the money laundering statutes. In the case of

property seized for forfeiture due to a violation of the Controlled Substances Act in which the controlled substance was in personal use quantities, procedures are included to allow an owner or interested party to apply to have the property returned promptly. The rule also provides procedures for the expedited release, in certain cases, of conveyances seized for drug-related offenses and held for judicial forfeiture.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Fred I. Rosenberg, (202) 268-5477.

SUPPLEMENTARY INFORMATION: On November 18, 1988, the President signed into law the Anti-Drug Abuse Act of 1988 (Pub. L. 100-690). In three respects, the Act makes necessary an expansion of the Postal Service's regulations concerning forfeitures: (1) Section 6253 of the Act authorizes an agreement between the Postal Service and the Attorney General allowing the Postal Service to conduct administrative forfeitures of property subject to forfeiture under the Controlled Substances Act, 21 U.S.C. 881; (2) section 6079 of the Act mandates expedited forfeiture proceedings for certain property administratively seized for forfeiture under the Controlled Substances Act; and, (3) provisions of the Act, now codified as 18 U.S.C. 981, authorize the Postal Service to conduct administrative forfeitures of property involved in violations of 31 U.S.C. 5313(a), 5324 and 18 U.S.C. 1956, 1957 concerning money laundering offenses.

On June 27, 1989, the Attorney General signed a Memorandum of Understanding allowing the Postal Service to enforce the provisions of the Controlled Substances Act with respect to postal-related violations and to conduct administrative forfeitures.

Because the existing forfeiture procedures (39 CFR 233.7) adopted for use in enforcement of the Child Protection statutes have worked well, the Postal Service is, by this rule, extending those procedures to administrative forfeitures of property subject to forfeiture under the Controlled Substances Act, 21 U.S.C. 881, and the money laundering statutes, 18 U.S.C. 1956, 1957 and 31 U.S.C. 5313(a), 5324.

The rule also adopts new §§ 233.8 through 233.10 providing for expedited forfeiture proceedings for certain property seized for forfeiture under the Controlled Substances Act, where the offense involves personal use quantities of a controlled substance, and for expedited release of conveyances seized for drug-related violations and held for judicial forfeiture.

Section 6079 of the Anti-Drug Abuse Act of 1988 requires that the Attorney General, the Secretary of the Treasury, and the Secretary of Transportation adopt expedited procedures for the forfeiture of property under 21 U.S.C. 881 where the violation which gives rise to the forfeiture involves only personal use quantities of controlled substances. Section 6080 requires the Attorney General to establish procedures for the expedited release of conveyances seized for drug-related violations and held for judicial forfeiture. Although the statute does not specifically direct the Postal Service to adopt these expedited forfeiture procedures, since the Postal Service's authority to conduct forfeitures of property under the Controlled Substances Act results from a delegation of authority from the Attorney General, who is required to adopt such procedures, we believe it is consistent with the intent of Congress that the Postal Service adopt expedited forfeiture procedures similar to those adopted by the Attorney General, thereby achieving uniformity of the forfeiture procedures followed by all agencies enforcing the Controlled Substances Act. These procedures apply only in cases involving forfeitures under the Controlled Substances Act. They do not apply to forfeitures under any other statute authorizing forfeitures by the Postal Service.

On April 10, 1989, the Department of Justice published a notice of proposed rulemaking to adopt expedited forfeiture procedures (54 FR 14246). On the same date the United States Coast Guard and the United States Customs Service published separate notices of proposed rulemaking to carry out their respective responsibilities under section 6079 of the Anti-Drug Abuse Act of 1988 (54 FR 14254 and 54 FR 14242).

After considering the comments received in response to the proposed rulemaking and having consulted with the U.S. Customs Service and the U.S. Coast Guard in order to achieve consistent and compatible regulations to carry out the requirements of the Anti-Drug Abuse Act, the Department of Justice published on September 11, 1989, its final rule implementing section 6079 (54 FR 37605).

Having carefully considered the rule adopted by the Department of Justice, the Postal Service hereby adopts a final rule regarding expedited forfeiture procedures for certain property forfeited under the Controlled Substances Act. The final rule adopts the substance of the rule adopted by the Department of Justice, except for those parts that would not apply to postal-related violations of the Controlled Substances

Act within the scope of the investigative authority delegated by the Attorney General.

Because the public has already commented upon the Department of Justice rule, the substance of which is being adopted by the Postal Service, no useful purpose would appear to be served by delaying adoption of the rule for further comment. Accordingly, 39 CFR is hereby amended as follows:

List of Subjects in 39 CFR Part 233

Crime, Forfeiture, Postal Service.

PART 233—[AMENDED]

1. The authority citation for part 233 is revised to read as follows:

Authority: 39 U.S.C. 101, 401, 402, 403, 404, 406, 410, 411, 3005(e)(1); 12 U.S.C. 3401-3422; 18 U.S.C. 981, 1956, 1957, 2254; 21 U.S.C. 881.

2. In § 233.7, the heading is removed and "Forfeiture Authority and Procedures" is inserted in its place; in paragraph (a), remove "18 U.S.C. 2254" and insert "18 U.S.C. 981, 2254, and 21 U.S.C. 881" in its place; in paragraph (c), remove "section 2254" and insert "under the statutes identified in paragraph (a) of this section" in its place; in paragraph (d), remove "18 U.S.C. 2254" and insert "under the statutes identified in paragraph (a) of this section" in its place; and revise paragraph (b) to read as follows:

§ 233.7 Forfeiture authority and procedures.

(b) *Administrative forfeiture authority.* The Chief Postal Inspector is authorized to conduct administrative forfeitures under the statutes identified in paragraph (a) of this section, following, where applicable, the procedures provided by the customs laws of the United States (19 U.S.C. 1600 *et seq.*), and to pay valid liens and mortgages against property that has been so forfeited.

3. Add §§ 233.8, 233.9, and 233.10 as follows:

§ 233.8 Expedited forfeiture proceedings for property seized for administrative forfeiture involving controlled substances in personal use quantities.

(a) *Definitions.* As used in this section, the following terms have the meanings specified:

(1) *Appraised Value* means the estimated domestic price at the time of seizure at which such or similar property is freely offered for sale.

(2) *Controlled Substance* has the meaning given in 21 U.S.C. 802.

(3) *Legal and Factual Basis of the Seizure* means a statement of the applicable law under which the property is seized, and a written statement of the circumstances of the seizure sufficiently precise to enable an owner or other interested party to identify the date, place, and use or acquisition which makes the property subject to forfeiture.

(4) *Owner* means one having a legal and possessory interest in the property seized for forfeiture. Even though one may hold primary and direct title to the property seized, such person may not have sufficient actual beneficial interest in the property to support a petition as owner if the facts indicate that another person had dominion and control over the property.

(5) *Personal Use Quantities* means possession of a controlled substance in circumstances where there is not other evidence of an intent to distribute, or to facilitate the manufacturing, compounding, processing, delivering, importing, or exporting of any controlled substance. Evidence of personal use quantities does not include sweepings or other evidence of possession of quantities of a controlled substance for other than personal use.

(i) Such other evidence includes:

(A) Evidence, such as drug scales, drug distribution paraphernalia, drug records, drug packaging material, method of drug packaging, drug "cutting" agents and other equipment, that indicates an intent to process, package or distribute a controlled substance;

(B) Information from reliable sources indicating possession of a controlled substance with intent to distribute;

(C) The arrest and/or conviction record of the person or persons in actual or constructive possession of the controlled substance for offenses under Federal, State or local law that indicates an intent to distribute a controlled substance;

(D) Relationship of the controlled substance to large amounts of cash or any amount of prerecorded government funds;

(E) Possession of the controlled substance under circumstances that indicate the substance is a sample intended for distribution in anticipation of a transaction involving large quantities, or is part of a larger delivery; or

(F) Statements by the possessor, or otherwise attributable to the possessor, including statements of conspirators, that indicate possession with intent to distribute.

(ii) Possession of a controlled

substance is presumed to be for personal use when there are no indicia of illicit drug trafficking or distribution such as, but not limited to, the factors listed in § 233.8(a)(5)(i), and the amounts do not exceed the following quantities:

(A) One gram of a mixture of substance containing a detectable amount of heroin;

(B) One gram of a mixture or substance containing a detectable amount of:

(1) Coca leaves, except coca leaves and extracts of coca leaves from which cocaine, ecgonine, and derivations of ecgonine or their salts have been removed;

(2) Cocaine, its salts, optical and geometric isomers, and salts of isomers;

(3) Ecgonine, its derivatives, their salts, isomers, and salts of isomers; or

(4) Any compound, mixture or preparation which contains any quantity of any of the substances referred to in § 233.8(a)(5)(ii)(B)(1)-(3);

(5) 1/10th gram of a mixture or substance described in § 233.8(a)(5)(ii) which contains cocaine base;

(6) 1/10th gram of a mixture or substance containing a detectable amount of phencyclidine (PCP);

(7) 500 micrograms of a mixture or substance containing a detectable amount of lysergic acid diethylamide (LSD);

(8) One ounce of a mixture of substance containing a detectable amount of marijuana;

(9) One gram of methamphetamine, its salts, isomers, and salts of its isomers, or one gram of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomer.

(iii) The possession of a narcotic, a depressant, a stimulant, a hallucinogen or cannabis-controlled substance will be considered in excess of personal use quantities if the dosage unit amount possessed provides the same or greater equivalent efficacy as described in § 233.8(a)(5)(ii).

(6) *Property* means property subject to forfeiture under Title 21, U.S.C., Sections 881(a)(4), (6), and (7).

(7) *Statutory Rights or Defenses to the Forfeiture* means all legal and equitable rights and remedies available to a claimant of property seized for forfeiture.

(8) *Sworn to* as used in § 233.8(b)(4)(ii) refers to the oath as provided by 28 U.S.C. 1746.

(b) *Petition for expedited release in an administrative forfeiture action.* (1) Where property is seized for administrative forfeiture involving controlled substances in personal use

quantities, the owner may petition the Postal Inspection Service for expedited release of the property.

(2) The owner filing the petition for expedited release must establish the following:

(i) The owner has a valid, good faith interest in the seized property as owner or otherwise;

(ii) The owner reasonably attempted to ascertain the use of the property in a normal and customary manner; and

(iii) The owner did not know or consent to the illegal use of the property, or in the event that the owner knew or should have known of the illegal use, the owner did what reasonably could be expected to prevent the violation.

(3) In addition to those factors listed in § 233.8(b)(2), if an owner can demonstrate that he has other statutory rights or defenses that would cause him to prevail on the issue of forfeiture, such factors must also be considered in ruling on the petition for expedited release.

(4) A petition for expedited release must be:

(i) Filed in a timely manner to be considered; in order to be filed in a timely manner, the petition must be received by the Postal Inspection Service within 20 days from the date of the first publication of the notice of seizure.

(ii) Executed and sworn to by the owner and both the envelope and the request must be clearly marked "PETITION FOR EXPEDITED RELEASE";

(iii) Filed in accordance with the notice of seizure; and

(iv) Addressed to the Chief Postal Inspector, Postal Inspection Service.

(5) The petition must include the following:

(i) A complete description of the property, including identification numbers, if any, and the date and place of seizure;

(ii) The petitioner's interest in the property, which must be supported by title documentation, bills of sale, contracts, mortgages, or other satisfactory documentary evidence; and

(iii) A statement of the facts and circumstances, to be established by satisfactory proof, relied upon by the petitioner to justify expedited release of the seized property.

(c) *Ruling on petition for expedited release in an administrative forfeiture action involving personal use quantities of a controlled substance.* (1) Upon receipt of a petition for expedited release filed pursuant to § 233.8(b), the Postal Inspection Service must

determine first whether a final administrative determination of the case, without regard to the provisions of this section, can be made within 21 days of the seizure. If such a final administrative determination is made within 21 days, no further action need be taken under this section.

(2) If no such final administrative determination is made within 21 days of the seizure, the following procedure applies:

(i) The Postal Inspection Service, within 20 days after the receipt of the petition for expedited release, determines whether the petition filed by the owner has established the factors listed in § 233.8(b)(2); and

(ii) If the Postal Inspection Service determines that those factors have been established, it terminates the administrative proceedings and returns the property to the owner except where it is evidence of a violation of law; or

(iii) If the Postal Inspection Service determines that those factors have not been established, it proceeds with the administrative forfeiture.

(d) *Posting of substitute res.* (1) Where property is seized for administrative forfeiture involving controlled substances in personal use quantities, the owner may obtain release of the property by posting a substitute res with the Postal Service. The property will be released to the owner upon the payment of an amount equal to the appraised value of the property if it is not evidence of a violation of law or has design or other characteristics that particularly suit it for use in illegal activities. This payment must be in the form of a traveler's check, a money order, a cashier's check or an irrevocable letter of credit made payable to the Postal Service. A bond in the form of a cashier's check will be considered as paid once the check has been accepted for payment by the financial institution which issued the check.

(2) If a substitute res is posted and the property is administratively forfeited, the Postal Inspection Service will forfeit the substitute res in lieu of the property.

§ 233.9 Expedited release of conveyances being forfeited in a judicial forfeiture proceeding for a drug-related offense.

(a) *Petition for expedited release of conveyance.* Where a conveyance has been seized and is being forfeited in a judicial proceeding for a drug-related offense, the owner may petition the United States Attorney for an expedited release of the conveyance in accordance with the regulations of the Department of Justice (21 CFR part 1316).

(b) *Petition filed in timely manner.* A

petition for expedited release must be filed in a timely manner in order to be considered by the United States Attorney. To be considered as filed in a timely manner, in accordance with 21 CFR part 1316, the petition must be received by the appropriate United States Attorney within 20 days from the date of the first publication of the notice of the action and arrest of the property, or within 30 days after filing of the claim, whichever occurs later.

(c) *Obtaining release of the property by filing a substitute res bond.* Where a conveyance is being forfeited in a judicial proceeding for a drug-related offense, the owner may obtain release of the property by filing a substitute res bond with the Postal Inspection Service. The conveyance will be released to the owner upon the payment of a bond in the amount of the appraised value of the conveyance if it is not evidence of a violation of law or has design or other characteristics that particularly suit it for use in illegal activities. This bond must be in the form of a traveler's check, a money order, a cashier's check or an irrevocable letter of credit made payable to the United States Postal Service. A bond in the form of a cashier's check will be considered as paid once the check has been accepted for payment by the financial institution which issued the check.

(d) *Forfeiture of the bond.* If a substitute res bond is filed and the conveyance is judicially forfeited, the court will forfeit the bond in lieu of the property.

§ 233.10 Notice provisions.

(a) *Special notice provision.* At the time of seizure of property defined in § 233.8(b) for violations involving the possession of personal use quantities of a controlled substance, written notice will be provided to the possessor of the property regarding applicable statutes and Federal regulations including the procedures established for the filing of a petition for expedited release and for the posting of a substitute res bond.

(b) *Standard notice provision.* The standard notice to the owner as required by 19 U.S.C. 1607 will be made at the earliest practicable opportunity after determining ownership of the seized property and must include the legal and factual basis of the seizure.

Fred Eggleston,

Assistant General Counsel, Legislative Division.

[FR Doc. 89-26775 Filed 11-14-89; 8:45 am]

BILLING CODE 7710-12-M

GENERAL SERVICES ADMINISTRATION

41 CFR Ch. 101

[FPMR Temp. Reg. A-32, Supp. 1]

First Duty Station Allowances for Relocated Presidential Transition Team Personnel Subsequently Appointed to Government Service

AGENCY: Federal Supply Service, GSA.

ACTION: Temporary regulation.

SUMMARY: This supplement extends the expiration date of FPMR Temp. Reg. A-32 to November 9, 1990. This regulation implements authority to pay limited first duty station relocation allowances to eligible members of the Presidential transition team who relocate prior to selection for, or appointment to, certain federal government positions.

DATES: Effective date: November 10, 1989. Expiration date: November 9, 1990.

FOR FURTHER INFORMATION CONTACT: Larry Tucker, Travel Management Division, Regulations Branch (FBTR), Washington, DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. The General Services Administration has based all administrative decisions underlying this rule on adequate information concerning the need for and consequences of this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Ch. 101

Government employees, Travel, Travel allowances, Travel and transportation expenses.

Authority: 5 U.S.C. 5721-5734; 20 U.S.C. 905(a); and EO 11609, July 22, 1971.

In title 41, chapter 101 of the Code of Federal Regulations, supplement 1 to FPMR Temp. Reg. A-32 is added to the appendix at the end of subchapter A to read as follows:

October 31, 1989.

Federal Property Management Regulations, Temporary Regulation A-32, Supplement 1

TO: Heads of Federal agencies.

SUBJECT: First duty station allowances for relocated Presidential Transition Team personnel subsequently appointed to Government service
1. Purpose. This supplement extends the expiration date of FPMR Temp. Reg. A-32.

2. Effective date. This supplement is effective November 10, 1989.

3. Expiration date. This supplement expires November 9, 1990, unless sooner canceled or revised.

4. Explanation of changes. The expiration date in paragraph 3 of FPMR Temp. Reg. A-32 is extended to November 9, 1990.

Richard G. Austin,

Acting Administrator of General Services.

[FR Doc. 89-26788 Filed 11-14-89; 8:45 am]

BILLING CODE 6820-24-M

41 CFR Parts 301-1, 301-3, 301-4, and 301-7

[FTR Amdt. 13]

Federal Travel Regulation

AGENCY: Federal Supply Service, GSA.
ACTION: Final rule.

SUMMARY: This final rule amends the Federal Travel Regulation to add new provisions concerning the redemption of frequent traveler benefits for upgrades to premium-class air accommodations and to clarify the intent of the Government's policy concerning the use of premium-class air accommodations, such as business class.

EFFECTIVE DATE: This final rule is effective for travel (including travel incident to a change of official station) performed on or after November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Richard Sturdy, Travel Management Division (FBT), Washington DC 20406, telephone FTS 557-1253 or commercial (703) 557-1253.

SUPPLEMENTARY INFORMATION: The General Services Administration (GSA) has determined that this rule is not a major rule for the purposes of Executive Order 12291 of February 17, 1981, because it is not likely to result in an annual effect on the economy of \$100 million or more; a major increase in costs to consumers or others; or significant adverse effects. GSA has based all administrative decisions underlying this rule on adequate

information concerning the need for, and consequences of, this rule; has determined that the potential benefits to society from this rule outweigh the potential costs and has maximized the net benefits; and has chosen the alternative approach involving the least net cost to society.

List of Subjects in 41 CFR Parts 301-1, 301-3, 301-4, and 301-7

Government employees, Travel, Travel allowances, Travel and transportation expenses.

For the reasons set out in the preamble, 41 CFR parts 301-1, 301-3, 301-4, and 301-7 are amended as follows:

PART 301-1—APPLICABILITY AND GENERAL RULES

1. The authority citation for part 301-1 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

2. Section 301-1.6 is amended by revising paragraph (b) and adding new paragraph (f) to read as follows:

§ 301-1.6 Instructions/guidelines for travelers.

(b) *Promotional materials received in connection with official travel from common carriers, rental car companies, or other commercial source.* Employees are obligated to account for any gift, gratuity, or benefit received from private sources incident to the performance of official business (Comp. Gen. Decision B-199656, July 15, 1981). All promotional materials (e.g., bonus flights, reduced-fare coupons, cash, merchandise, gifts, and credits toward future free or reduced costs of services or goods) received by employees in connection with official travel or incident to the purchase of a ticket for official travel, or other services such as car rentals, are due the Government and may not be retained by the employee. When an employee receives promotional material from any commercial source incident to official travel, the employee shall accept the material on behalf of the Federal Government and relinquish it to an appropriately designated agency official. The governing regulations regarding agency disposition of promotional material received by Federal employees are prescribed by the Administrator of General Services in 41 CFR 101-25.103. (See paragraph (f) of this section for redemption of frequent traveler benefits.)

(f) *Frequent traveler programs.* (1) Frequent traveler benefits earned in

connection with official travel, such as mileage credits, points, etc., may be used only for official travel. Employees may not retain and use such benefits for personal travel. Since the Comptroller General has ruled that a frequent traveler benefit is the property of the Government if any part of it is earned through official travel, employees should maintain separate frequent traveler accounts for official and personal travel.

(2) Agencies should encourage employees who travel frequently to participate in various frequent traveler programs offered by airlines, hotels, and car rental vendors. Employees may be reimbursed for the cost to enter certain frequent traveler programs when entering the program is expected to result in a savings to the Government. Reimbursement for the cost to enter the program may not exceed the expected amount of the savings.

(3) To the maximum extent practicable, overall travel costs should be reduced by using benefits earned through frequent traveler programs to obtain free airline tickets, rooms, and rental vehicles. (See § 301-3.3(d)(3)(ii)(F) for upgrades to premium-class accommodations.)

(4) Use of mandatory or preferred vendors, such as contract air and rail carriers, lowest cost car rental companies, etc., shall be observed fully without regard to whether such vendors offer frequent traveler programs. No deviations from mandatory or preferred use requirements will be permitted solely for the purpose of accumulating frequent traveler benefits.

PART 301-3—USE OF COMMERCIAL TRANSPORTATION

3. The authority citation for part 301-3 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

4. Section 301-3.3 is amended by revising paragraphs (a) and (d) to read as follows:

§ 301-3.3 Travel policy and class of service authorized.

(a) *General policy.* It is the general policy of the Government that less-than-premium-class accommodations should be used for all modes of passenger transportation. However, common carrier accommodations shall be as specifically provided in paragraphs (b), (c), and (d) of this section and shall apply to both domestic and international travel of civilian employees while on official business for the Government.

(d) *Airline accommodations—(1) Policy.* It is the policy of the Government that employees who use commercial air carriers for domestic and international travel on official business shall use coach-class or equivalent accommodations. Premium-class air accommodations (such as business or first-class or equivalent accommodations) may be used only as permitted in paragraph (d)(3) of this section. (See § 301-3.6(b) for use of U.S. flag air carriers.)

(2) *Authorization and approval of the use of premium-class air accommodations—(i) Authorization or approval.* Heads of agencies may authorize or approve the use of premium-class air accommodations under criteria provided herein. As used in this paragraph (d), "agency head" means the Secretary, Attorney General, Administrator, Governor, Chairman, or the chief official by any other title, of an executive agency (as defined in 5 U.S.C. 105), an agency in the legislative branch of the Government, or the government of the District of Columbia. For ease of administration, heads of agencies may delegate, with provisions for limited redelegation, authority to authorize or approve premium-class air travel under this paragraph (d) provided that appropriate guidelines in the form of regulations or other written instructions are furnished to the designee. The delegation or redelegation of authority to authorize or approve premium-class air travel shall be held to as high an administrative level as practical to ensure adequate consideration and review of the circumstances requiring the need for premium-class air accommodations.

(ii) *Requirements.* Authorization for the use of premium-class air accommodations shall be made in advance of the actual travel unless extenuating circumstances or emergency situations make advance authorization impossible. If advance authorization cannot be obtained, the employee shall obtain written approval from the agency head, or his/her deputy, or other designee at the earliest possible time.

(iii) *Employee responsibility and documentation.* The employee shall certify on the travel voucher the reasons for the use of premium-class air accommodations. Specific authorization or approval shall be attached to, or stated on, the travel voucher and retained for the record. In the absence of specific authorization or approval, the employee shall be responsible for all additional costs resulting from the use of premium-class air accommodations. The additional costs shall be the difference

between the premium-class accommodations used and the authorized coach-class or equivalent accommodations.

(3) *Use of premium-class air accommodations.* Circumstances justifying the use of premium-class air accommodations are limited to those listed in paragraphs (d)(3) (i) and (ii) of this section.

(i) *Employee certification required.* Premium-class accommodations may be used when regularly scheduled flights between the authorized origin and destination points (including connection points) provide only premium-class accommodations, and the employee certifies this circumstance on the travel voucher.

(ii) *Agency authority or approval required.* The agency head (as defined in paragraph (d)(2)(i) of this section) or his/her designee may authorize or approve the use of premium-class accommodations when:

(A) Space is not available in coach-class or equivalent accommodations on any scheduled flight in time to accomplish the purpose of the official travel, which is so urgent that it cannot be postponed;

(B) Premium-class accommodations are necessary because the employee is so handicapped or otherwise physically impaired that other accommodations cannot be used, and this condition is substantiated by competent medical authority;

(C) Premium-class accommodations are required for security purposes or because exceptional circumstances, as determined by the agency head (or his/her designee), make their use essential to the successful performance of any agency mission;

(D) Less-than-premium-class accommodations on foreign carriers do not provide adequate sanitation or health standards;

(E) The use of premium-class accommodations would result in an overall savings to the Government based on economic considerations, such as the avoidance of additional subsistence costs, overtime, or lost productive time that would be incurred while awaiting availability of less-than-premium-class accommodations; or

(F) Premium-class accommodations are obtained through the redemption of frequent traveler benefits.

PART 301-4—REIMBURSEMENT FOR USE OF PRIVATELY OWNED CONVEYANCES

5. The authority citation for part 301-4 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301-4.3 [Amended]

6. Section 301-4.3(a)(1) is amended by removing the term "first-class" everywhere it appears and adding in its place "premium-class".

PART 301-7—PER DIEM ALLOWANCES

7. The authority citation for part 301-7 continues to read as follows:

Authority: 5 U.S.C. 5701-5709; E.O. 11609, July 22, 1971 (36 FR 13747).

§ 301-7.6 [Amended]

8. Section 301-7.6(c)(6) is amended by removing the term "first-class" everywhere it appears and adding in its place "premium-class".

Dated: September 15, 1989.

Richard G. Austin,
Acting Administrator of General Services.
[FR Doc. 89-26695 Filed 11-14-89; 8:45 am]
BILLING CODE 6820-24-M

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 21

RIN 1018-AB37

Migratory Bird Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Final rule.

SUMMARY: This rule modifies two existing depredation orders (50 CFR 21.43 and 21.44) to prohibit killing of the tricolored blackbird (list as "tri-colored red-winged blackbird" in 50 CFR 21.43) throughout its range, and seven species (western meadowlark [listed as "meadowlark" in 50 CFR 21.44]; American, lesser, and Lawrence's goldfinch [listed collectively as "goldfinches" in 50 CFR 21.44]; acorn woodpecker; Lewis' woodpecker; and northern flicker [listed as "flickers" in 50 CFR 212.44]) in California, for depredation control purposes without first obtaining a Federal permit. This action is necessary because these species are no longer serious agricultural pests, and some have been declining in numbers such that their continued existence may be in jeopardy without additional protection. This modification will provide the additional protection necessary for these birds and still permit control when and where necessary for protection of California's agriculture.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT:

Vernon D. Cunningham, U.S. Fish and Wildlife Service, Region 1, 500 NE. Multnomah, Suite 1692, Portland, Oregon 97232, (503/231-6167 or FTS 429-6167).

SUPPLEMENTARY INFORMATION:

On August 26, 1988, the U.S. Fish and Wildlife Service published for public comment in the *Federal Register* (53 FR 32634) a proposal to modify 50 CFR 21.43 and 21.44. Only three comments were received. One commenter strongly supported the proposed rule without change. The other commenters requested that a provision be made in 50 CFR 21.43 to allow the inadvertent or accidental take of tricolored blackbirds while carrying out bird control for other species. However, such a provision is not possible as it would make enforcement of the depredation order unachievable and result in little further protection of the species. Additionally, depredation permits can be obtained before starting control procedures if tricolored blackbirds are in the area and there is no way to separate them from the targeted species. All commenters supported the proposed rule change affecting the seven species listed in 50 CFR 21.44.

Tricolored blackbird populations throughout much of California's Central Valley have declined by over 90% during the past 50 years and probably have suffered similar losses throughout much of the remainder of their restricted range. Because of this dramatic range-wide decline, the U.S. Fish and Wildlife Service has included the species as a Category 2 "candidate" in its Review of Vertebrate Wildlife considered for possible addition to the List of Endangered and Threatened Species (47 FR 58459, December 30, 1982; 50 FR 37958, September 18, 1985; 54 FR 554, January 6, 1989). While depredations on rice and other agricultural grain crops still occur, frightening devices are most often used to obtain relief. Tricolored blackbird damage at cattle feedlots is minimal compared to that of less insectivorous species such as starlings, brown-headed cowbirds, and red-winged blackbirds. While lethal control of blackbirds, starlings, and cowbirds is done at feedlots, tricolored blackbirds usually flock separately and can usually be avoided. Therefore, this action, revision of 50 CFR 21.43 to delete any reference to the tricolored blackbird, will not significantly impact agricultural interests.

This rule also revises 50 CFR 21.43 to correct common names for two other blackbird species. Yellow-headed, red-

winged blackbirds and bicolor red-winged blackbirds are now correctly referred to as yellow-headed blackbirds and red-winged blackbirds, respectively.

As previously written, 50 CFR 21.44 related to a June 5, 1937, order by the Secretary of Agriculture and was based upon importance to crop depredation during the period 1929-36. However, California agriculture and bird populations have changed considerably since that time. Western meadowlarks, American, Lesser, and Lawrence's goldfinches, acorn woodpeckers, Lewis' woodpeckers, and northern flickers are no longer considered to be significant agricultural pests according to the California Department of Food and Agriculture. Damage is infrequent and can usually be controlled by non-lethal methods. The western meadowlark has occasionally damaged sprouting grain fields, large-seeded truck crops, and grapes. Goldfinches have occasionally damaged commercial flower and vegetable seed fields. Scaring devices, barriers, and other non-lethal control methods generally provide satisfactory control. The acorn woodpecker, Lewis' woodpecker, and northern flicker occasionally damage almonds and apples and do structural damage to wooden buildings and poles. Repellents, netting, and metal barriers are effective non-lethal means which usually provide adequate protection if applied properly. In addition, Lewis' woodpecker populations have been decreasing and the species could become federally listed as endangered or threatened in the foreseeable future without this additional protection.

Regulatory Flexibility Act, Executive Order 12291, and the Paperwork Reduction Act

A Determination of Effects approved by the Assistant Secretary, Fish and Wildlife and Parks, on May 20, 1988, concluded that this modification of the depredation order is not a "major" rule. These regulations contain no information collection requirements which require approval by the Office of Management and Budget, and will not have a significant economic effect on a substantial number of small entities.

National Environmental Policy Act Consideration

In accordance with NEPA requirements, an Environmental Assessment to "Modify Existing Depredation Orders to Protect Certain Bird Species in California" was prepared in December 1987, and a Finding of No Significant Impact was signed on May 19, 1988.

Endangered Species Act Consideration

This rule will not affect the continued existence of any species designated as endangered or threatened or modify or destroy its critical habitat and is consistent with conservation programs for those species.

Authorship

The primary author is Vernon D. Cunningham, working under the direction of Richard D. Bauer, Migratory Bird Coordinator, 500 NE. Multnomah, Suite 1692, Portland, Oregon 97232 (503/231-6167 or FTS 429-6167).

List of Subjects in 50 CFR Part 21

Exports, Imports, Reporting and recordkeeping requirements, Wildlife.

Regulations Promulgation

Accordingly, subpart D of part 21, subchapter B of chapter I, title 50 of the code of Federal Regulations is amended as set forth below:

PART 21—[AMENDED]

1. The authority citation for part 21 continues to read as follows:

Authority: Migratory Bird Treaty Act, Sec. 3, Pub. L. 65-186, 40 Stat. 755 (16 U.S.C. 704); Sec. 3(h)(3), Pub. L. 95-616, 92 Stat. 3112 (16 U.S.C. 712).

2. The introductory paragraph of § 21.43 is revised to read as follows:

§ 21.43 Depredation order for blackbirds, cowbirds, grackles, crows, and magpies.

A Federal permit shall not be required to control yellow-headed, red-winged, rusty, and Brewer's blackbirds, cowbirds, all grackles, crows, and magpies, when found committing or about to commit depredations upon ornamental or shade trees, agricultural crops, livestock, or wildlife, or when concentrated in such numbers and manner as to constitute a health hazard or other nuisance: *Provided:*

3. The introductory paragraph of § 21.44 is revised to read as follows:

§ 21.44 Depredation order for designated species of depredating birds in California

In any county in California in which horned larks, golden-crowned, white-crowned and other crowned sparrows, and house finches are, under extraordinary conditions, seriously injurious to agricultural or other interests, the Commissioner of Agriculture may, without a permit, kill or cause to be killed under his/her general supervision such of the above migratory birds as may be necessary to safeguard any agricultural or

horticultural crop in the country:

Provided:

* * * * *

Dated: August 21, 1989.

Richard N. Smith,

Acting Director, Fish and Wildlife Service.

[FR Doc. 89-26762 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-55-M

Proposed Rules

Federal Register

Vol. 54, No. 219

Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1001, 1002, 1004, 1005, 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

[Docket No. AO-160-A65-R01, etc.; DA-89-028]

Milk in the Middle Atlantic and Certain Other Marketing Areas; Tentative Decision and Opportunity To File Written Exceptions on Proposed Amendments to Tentative Marketing Agreements and to Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rules.

7 CFR part	Marketing area	AO Nos.
1004	Middle Atlantic.....	AO-160-A65-R01.
1001	New England.....	AO-14-A62-R01.
1002	New York-New Jersey.....	AO-71-A77-R01.
1005	Carolina.....	AO-388-A1-R01.
1006	Upper Florida.....	AO-356-A27.
1007	Georgia.....	AO-366-A30.
1011	Tennessee Valley.....	AO-251-A33.
1012	Tampa Bay.....	AO-347-A30.
1013	Southeastern Florida.....	AO-286-A37.
1030	Chicago Regional.....	AO-361-A26.
1032	Southern Illinois-Eastern Missouri.....	AO-313-A37.
1033	Ohio Valley.....	AO-166-A58.
1036	Eastern Ohio-Western Pennsylvania.....	AO-179-A53.
1040	Southern Michigan.....	AO-225-A40.
1046	Louisville-Lexington-Evansville.....	AO-123-A59.
1049	Indiana.....	AO-319-A36.
1050	Central Illinois.....	AO-355-A25.
1064	Greater Kansas City.....	AO-23-A58.

7 CFR part	Marketing area	AO Nos.
1065	Nebraska-Western Iowa.....	AO-86-A45.
1068	Upper Midwest.....	AO-178-A42.
1076	Eastern South Dakota.....	AO-260-A28.
1079	Iowa.....	AO-295-A39.
1093	Alabama-West Florida.....	AO-386-A8.
1094	New Orleans-Mississippi.....	AO-103-A50.
1096	Greater Louisiana.....	AO-257-A37.
1097	Memphis, Tennessee.....	AO-219-A44.
1098	Nashville, Tennessee.....	AO-184-A53.
1099	Paducah, Kentucky.....	AO-183-A43.
1106	Southwest Plains.....	AO-210-A49.
1108	Central Arkansas.....	AO-243-A40.
1120	Lubbock-Plainview, Texas.....	AO-328-A27.
1124	Pacific Northwest.....	AO-368-A17.
1126	Texas.....	AO-231-A57.
1131	Central Arizona.....	AO-271-A27.
1132	Texas Panhandle.....	AO-262-A37.
1134	Western Colorado.....	AO-301-A20.
1135	Southwestern Idaho-Eastern Oregon.....	AO-380-A7.
1137	Eastern Colorado.....	AO-326-A24(corr.).
1138	Rio Grande Valley.....	AO-335-A33(corr.).
1139	Great Basin.....	AO-309-A28(corr.).

SUMMARY: This tentative decision proposes certain changes in those orders that currently provide tentative and final price announcements for Class II milk based on industry proposals considered at a public hearing held August 22, 1989. The current method of announcing a tentative Class II milk price for each month on or before the 15th of the preceding month, with a final Class II milk price for the month being determined and announced on the fifth day of the following month, would be changed. Instead, the Class II milk price announced by the 15th of each month would be the final or effective Class II milk price for the following month. The Class II milk price would not be retroactively revised. The objective of the current pricing arrangement whereby the Class II milk price would be not less than the Minnesota-Wisconsin (M-W) manufacturing grade milk price, or Class III milk price in most

Federal orders, would be maintained in principle. Therefore, to the extent that the announced Class II price for a given month is less than the Class III price for that same month, the difference would be included in computing the second succeeding month's Class II milk price.

The Secretary of Agriculture will determine whether producers favor issuance of the amended orders on an interim basis.

DATE: Comments are due on or before December 15, 1989.

ADDRESS: Comments (four copies) should be filed with the Hearing Clerk, Room 1083, South Building, United States Department of Agriculture, Washington, DC 20250.

FOR FURTHER INFORMATION CONTACT: Richard A. Glandt, Marketing Specialist, USDA/AMS/Dairy Division, Order Formulation Branch, Room 2968, South Building, P.O. Box 96456, Washington, DC 20090-6456, (202) 447-4829.

SUPPLEMENTARY INFORMATION: This administration action is governed by the provisions of Sections 556 and 557 of title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12291.

The Regulatory Flexibility Act (5 U.S.C. 601-612) requires the Agency to examine the impact of a proposed rule on small entities. Pursuant to 5 U.S.C. 605(b), the Administrator of the Agricultural Marketing Service has certified that this action will not have a significant economic impact on a substantial number of small entities. The amendment(s) would reduce the regulatory burden of handlers while minimizing the economic impact on producers.

Prior document in this proceeding:

Notice of Hearing: Issued August 10, 1989; published August 16, 1989 (54 FR 33709).

Recommended Decision: Issued October 31, 1989; published November 8, 1989 (54 FR 46904).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this tentative decision with respect to proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the Middle Atlantic and Certain Other Marketing Areas. This notice is issued pursuant to

the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

Interested parties may file written exceptions to this tentative decision with the Hearing Clerk, U.S. Department of Agriculture, Washington, DC, 20250, by the 30th day after publication of this decision in the Federal Register. Four copies of the exceptions should be filed. All written submissions made pursuant to this notice will be made available for public inspection at the office of the Hearing Clerk during regular business hours (7 CFR 1.27(b)).

This proceeding reopened the hearings previously held on proposed amendments to the New England, New York-New Jersey, and Middle Atlantic orders. Similarly, an earlier hearing on a proposed new order for the Carolina marketing area also was reopened in this proceeding. This tentative decision does not include specific findings for those orders. Findings pertaining to Class II prices, if appropriate, will be made in the recommended decisions to be issued for those orders.

The proposed amendments set forth below are based on the record of a public hearing held at Alexandria, Virginia, on August 22, 1989, pursuant to a notice of hearing issued August 16, 1989 (54 FR 33709).

The material issue on the record of the hearing relates to:

1. Changing the manner in which the Class II milk price is determined and announced in most Federal milk orders.
2. The need for expedited action to implement the proposed changes as soon as possible.

Findings and Conclusions

The following findings and conclusions on the material issue are based on evidence presented at the hearing and the record thereof:

1. Changing the Manner in Which the Class II Milk Price is Determined and Announced in Most Federal Milk Orders

The orders involved in this proceeding that now provide for tentative and final Class II price announcements should be amended to provide that the Class II price will be announced on or before the 15th day of the preceding month. Once announced, the Class II price would not be revised. Nevertheless, the objective of the current pricing arrangement, whereby the Class II price would not be less than the Class III price for the month, should be maintained in

principle. Therefore, to the extent that the announced Class II price without adjustment for any prior month is less than the Class III price (or the basic formula price in some orders such as the two-class Florida orders) for the month, such difference would be included in computing subsequent months' Class II price.

For example, the Class II price for January would be announced on December 15th. On February 5, the January Class III price would be announced. If the January Class II price was less than the Class III price for January, that difference would be included in computing the Class II price for March, which would be announced on February 15. Thus, handlers would pay essentially a Class II price that would be floored by the Class III price. However, if the Class II price is less than the Class III price (or the basic formula price in some orders), the adjustment to reflect this difference would not be returned to producers until they receive payment for milk produced in the second succeeding month. This provision, as adopted herein, reflects the proposal by the Milk Industry Foundation (MIF) and the International Ice Cream Association (IICA), with a modification proposed by the National Milk Producers Federation (NMPF), and by Agri-Mark Inc., Eastern Milk Producers Cooperative Association Inc., and DairyLea Cooperative, Inc. (Agri-Mark, et al.), which are dairy farmer cooperatives.

MIF is a national trade association representing 1,000 dairy processing plants nationwide and accounts for about 80 percent of the fluid milk and related products produced in the United States. IICA is a trade association that represents 210 member companies who distribute about 85 percent of the ice cream and related frozen desserts consumed in the United States. The NMPF is an organization representing most of the dairy farmer cooperatives in the United States.

Handlers who utilize milk in Class II uses, such as cottage cheese, ice cream and yogurt, want to know in advance what the cost of the raw milk will be. It was for this purpose that the orders were amended in 1981 to provide for determination and announcement of a tentative Class II price on the 15th day of the preceding month. However, if the Class III price, which is announced some 50 days later on the fifth day of the following month, is higher than the tentative Class II price, then the Class III price also becomes the final Class II price. In such cases, the final Class II price is not known until after the month is over. From October 1981 through June

1989 (93 months), there have been 22 months when the final Class II price was increased after the month was over due to this feature of the current order provisions. One of the exhibits introduced at the hearing indicates that the increased value of Class II milk due to changes from the tentative Class II prices to the final Class II prices from March 1984 through March 1989 amounted to more than 23.5 million dollars. It is this retroactive price adjustment aspect of the current Class II pricing provisions that handlers proposed to change through this proceeding.

The increases from the tentative Class II prices to the final Class II prices on the 22 occasions noted above have varied from two cents per hundredweight to 74 cents per hundredweight. The reason handlers find these changes to be a burden is because by the time they know how much the increase is, they have already received the milk, made the products, and perhaps priced and sold most of the products to their customers. These factors were cited by all witnesses supporting the MIF/IICA proposal for final forward pricing. Obviously, handlers would much prefer to know their raw product cost before they establish selling prices for the products they make from the milk. The record indicates that handlers believe that they cannot do an effective job of determining product prices to their customers under the current Class II pricing provisions. Moreover, they are unable to recover after-the-fact increases in the prices for Class II milk.

Under the MIF/IICA proposal, when the Class III price for the month is higher than the Class II price announced on the 15th of the preceding month, the difference would be added in future months in increments not to exceed 25 cents per hundredweight for each prior month. This proposed "catch-up" feature is intended to not cause a reduction in producer returns, while at the same time avoiding large month-to-month price increases at times when milk prices are rapidly increasing. The witness testifying on behalf of the MIF/IICA said that it would be desirable to avoid large increases in the Class II prices from month to month. This view was also supported in testimony by witnesses representing the Borden Company, MorningStar Foods, Inc., Marigold Foods, Inc., the Kroger Co., and Dean Foods, Co.

On the other hand, NMPF and Agri-Mark, et al., separately proposed a modification of the "catch-up" so that the entire difference between the

announced Class II price and the Class III price for the month would be included in computing the Class II price at the next opportunity. This modification was intended to minimize any impact upon producer returns that might result from elimination of the final Class II price announcement. With this change, there would be minimal delay in returning to producers the full value of their milk at the prescribed Class II price level. Both the NMPF and Agri-Mark, et al., supported adoption of the MIF/IICA proposal if it was modified as they suggested.

An alternative mechanism for determining the Class II price was proposed by the Milk Foundation of Indiana (MFI). As proposed, the Class II price each month would be the Minnesota-Wisconsin (M-W) price for the second preceding month plus the appropriate differential, such as 10 cents, plus or minus the average difference between the M-W price for the second preceding month and the current month in each of the preceding three years. According to the proponent's spokesman, this method of determining the Class II price would result in less price volatility over time, and would reduce the seasonal distortion of advance pricing. Under this proposal there would be no "catch-up" adjustments.

The proponent's witness supported elimination of retroactive Class II pricing but expressed his view that the MFI proposal represented an effort to retain the current targeted level of price differential, place all class prices on the same price base, lessen the contra-seasonal aspect of advance pricing, and to provide meaningful advance notice of the Class II price. He stated that the proposal would result in a class price that lags below the M-W price if the M-W price increases more sharply in the current year than it increased in the three previous years. He also noted that the resulting price would stay above the M-W price in years where the rate of change is approximately the same or less than in previous years and that the reverse would be true in those months when the M-W price moves are downward. He explained that over the long run this method would yield a return to producers for Class II milk that would average 10 cents over the Class III price.

MFI filed a brief in support of its proposed advanced pricing method. In its brief, MFI urged that any method of computing the Class II price that results from this proceeding should focus on advance notice of a final price and not violate the premise of classified pricing.

The brief further states that there is nothing in the factors that the Secretary must consider in fixing a price for each classification that allows an increase in a price in a month " * * * just because the producers would have received a higher return had their milk gone into a different class use in the previous month than it actual[ly] did." Accordingly, the brief urges the Secretary to adopt proposal No. 2 rather than proposal No. 1 because proposal No. 2 would adhere to those principles and would provide more stable prices than any of the other proposals.

Another alternative approach was suggested by a witness who testified on behalf of Prairie Farms Dairy, Inc. (PFD). While indicating support for elimination of retroactive pricing for Class II milk, he proposed a modified approach that would combine certain aspects of proposals Nos. 1 and 2. Under his proposed modification, the Class II price would be determined using a portion of proposal No. 2, and the adjustment feature of proposal No. 1 would be used to adjust the Class II price in subsequent months if the Class III price for the current month exceeded the Class II price. He stated that this modified approach would have several advantages over either proposal No. 1 or proposal No. 2. In his view, such a provision would eliminate retroactive Class II pricing, be simple and easy to understand, permit announcing all class prices on a single date each month, and have little, if any, effect on returns to producers.

Under PFD's proposed modification, the Class II price each month would be the M-W price for the second preceding month plus 10 cents. If such price was less than the Class III price for the second preceding month, the difference in increments of 25 cents would be added to the Class II price in subsequent months until the difference was made up. PFD's representative also testified that perhaps the Class II price should be the Class III price plus as much as 50 cents.

Central Milk Producers Cooperative (CMPC), a federation of 14 cooperatives, whose members collectively price milk to fluid milk buyers regulated under the Chicago Regional milk order, submitted a brief in support of proposals 1 and 2 as proposed to be modified by PFD. In particular, the CMPC brief indicates support for pricing Class II milk at the M-W price for the second preceding month plus 50 cents, plus a single catch-up adjustment if the announced Class II price was less than the Class III price for the month. The brief cites some of

the same advantages as noted by the PFD spokesman.

The proposal submitted by the MIF/IICA, with the modification proposed by NMPF and Agri-Mark, et al., offers a reasonable approach to deal with the retroactive pricing problem in the current Class II pricing provisions. First, it does not change the basic method of determining the Class II price level. When the tentative Class II price provisions were adopted, the decision to do so clearly indicated an objective of the proponents to maintain a Class II price level at ten cents above the Class III price.

An analysis of the prices that would have been in effect had the provisions adopted herein been in effect from 1983 through 1988 indicates almost no difference, on an annual basis, from the prices obtained under the current provisions, ranging from a minus five cents per hundredweight in 1988 to no difference in 1983. Due to the "catch-up" feature of the new procedure, there is greater variation when prices under the proposed and current provisions are compared on a monthly basis. However, the basic Class II price level essentially will be maintained while at the same time the problems of retroactive pricing now faced by handlers will be alleviated.

Elimination of the retroactive pricing aspect of the current Class II pricing provisions was recognized as a desirable goal by all participants at the hearing, although one dairy farmer cooperative did oppose the two particular proposals that are under consideration in this proceeding. The National Farmers Organization (NFO), a multi-commodity collective bargaining organization for farmers that operates bargaining and marketing programs for dairy farmers pooled in approximately 21 Federal milk orders, opposed both the MIF/IICA and the MFI proposals. NFO preferred that no changes be made in the current method of Class II milk pricing. An NFO representative expressed the view that the MIF/IICA proposal created extreme fluctuations in the Class II price. He also maintained that the MFI proposed price, by rolling forward for three years the price declines over the last several years, results in a price for Class II milk that was unacceptably low. Simply stated, NFO opposed both proposals on the basis that neither one would yield an acceptable Class II price.

Each of the proposals and proposed modifications of the proposals was analyzed. The current Class II pricing provisions of the orders were intended to yield a Class II price that, over time,

would approximate the M-W price plus 10 cents, or in some orders, plus 15 cents or 25 cents. It was with this goal in mind that the proposals under consideration in this proceeding were evaluated. The pricing procedure proposed by the MIF/IICA, as proposed to be modified by the NMPF, comes the closest over the period from January 1983 through July 1989, to having provided the same prices as those that were the final Class II prices. Moreover, it is clear that this approach has widespread support within the industry. Certain handler representatives in fact indicated that they had no objection to the modification proposed by the NMPF, even though its application could result in some larger month-to-month price increases than otherwise would have resulted from the MIF/IICA's unmodified proposal.

With the exception of NFO, no other producer representatives expressed opposition to this approach. Even NFO's concern should be somewhat addressed in that producers will receive the full value for their Class II milk with less delay under the provision adopted herein than under any of the other proposals.

Some of the testimony indicated that it is desirable to minimize the size of the month-to-month changes in the prices for Class II milk. From a handler's standpoint, this probably is true. Nevertheless, we see no basis in this record for favoring one proposed method of establishing prices over another just because one has less price variations than another. More particularly, there is no basis here to conclude that there should be more concern in this regard for changes in the Class II price than there is with regard to changes in the Class I and/or Class III prices. Those prices change by whatever amount the Minnesota-Wisconsin price changes from month to month.

Under the provisions adopted herein, if the announced Class II price for a month (before adjustments) is less than the Class III price for that month, the difference (in all but one possible case) would be included in computing the Class II price for the second succeeding month. This reflects a long-standing Class II pricing intent that the value for Class II milk should not be less than the value for Class III milk. The one possible exception would be where the announced Class II price had been lower than the Class III price for the first month that an order to incorporate these proposed amendments would be in effect. In that case, the "catch-up" feature of the provisions adopted herein

would not become effective until the second month after its implementation.

The Pacific Northwest order provides that the Class III price will be M-W price, or a butter-powder formula price, whichever is lower. Accordingly, a companion provision provides that if the butter-powder formula price is the Class III price, then the final Class II price shall be reduced by the amount that the Class III price is less than the basic formula price to the extent that the Class II price would not be less than the Class III price. The order language adopted herein will preserve that price relationship between the Class II and Class III prices.

In one of the briefs filed, a question was raised over whether the factors that must be considered by the Secretary in fixing minimum class prices under an order included pricing to reflect the milk's value has it been used differently in a preceding month. We think this question misses the mark in its focus on pricing milk as if it had been used in another class. What is intended here is that the pricing method still places the same value on Class II milk as before, but it may delay passing some of that value to producers until a subsequent month. What will happen is that the value of the Class II milk each month will be based on the price announced on the 15th day of the preceding month. In addition, the pooled value may include an additional amount to reflect the fact the price announced on the 15th of an even earlier month failed to provide the intended Class II price level. It is true that the dollars involved might not come out exactly the same because there are some variations in the volumes of Class II milk from month to month. Nevertheless, such variations are expected to be small, and the value differences even smaller. We believe that the provisions adopted herein achieve the intent to eliminate retroactive Class II milk pricing, while at the same time preserving the basic concept of pricing Class II milk that now is reflected in the orders.

NFO's brief restated its objections to adoption of either of the proposals included in the hearing notice. NFO also opposed any expedited action in this proceeding, and urged again that no action be taken until the proposal that it submitted for consideration, and possibly others, have been included in a supplemental hearing notice and all such proposals have been heard. The brief further states that price timing, price level, and price are inextricably interwoven and that the Secretary cannot have a full record to establish "price timing" without testimony about

the price level. NFO's brief also asked that official notice be taken of the Federal Court proceeding, including the Judge's decision, in *NFO v. Lyng*, No. 88-1718 (D.C.D.C.).

Prior to the announcement of the hearing held in this proceeding, NFO and others submitted additional proposals that they wanted to have included in the Notice. NFO and Farmers Union Milk Marketing Cooperative, for example, proposed that the Class II milk price be established at a price level \$.60 to \$1.00 over the second preceding month's M-W price. Several other proposals were received, including some proposals to change the uses of milk that would be identified as Class II utilization.

In response, we would point out that although these other proposals, including those submitted by NFO, were not included in the notice for this proceeding, they remain under consideration for possible inclusion in a hearing notice if it is determined that another hearing should be held on a broader range of Class II issues. This being the case, we see no reason why it would be helpful to take Official Notice of a court proceeding that has no immediate bearing on the issues before the Secretary in this proceeding. Accordingly, the request for Official Notice is denied.

2. The Need for Expedited Action to Implement the Proposed Changes as Soon as Possible

At the hearing, and in subsequent requests, the proponents and other interested parties requested that the proposed amendments be implemented as soon as possible to avoid a recurrence of the Class II milk pricing situation that occurred in the fall months of 1988. Since the hearing was held, the M-W price has increased by larger amounts than predicted by the formula that the orders provide for determining the tentative Class II milk prices. As a result, the final Class II milk prices for September and October 1989 were 52 cents per hundredweight and 49 cents per hundredweight, respectively, higher than the announced tentative Class II prices. Official notice is hereby taken of the tentative Class II prices and the final Class II prices announced by the market administrators of the affected orders for the months of September and October 1989.

The procedure adopted herein accommodates the wishes of interested parties involved in this proceeding on the issue of expeditious handling. The possibility of further price increases as described above warrants the issuance

of a tentative decision. This procedure will implement the proposed changes in the Class II price procedure on an interim basis at the earliest possible date and also give interested parties an opportunity to file exceptions to the tentative final decision and, thereby, assist in the Department's rulemaking process.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when each of the aforesaid orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to each of the aforesaid tentative marketing agreements and orders:

(a) The interim marketing agreements and the orders, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the marketing area, and the minimum prices specified in the interim marketing agreements and the orders, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The interim marketing agreements and the orders, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, a

marketing agreement upon which a hearing has been held.

Interim Marketing Agreement and Interim Order Amending the Orders

Annexed hereto and made a part hereof are two documents, an Interim Marketing Agreement regulating the handling of milk and an Interim Order amending the orders regulating the handling of milk in the aforesaid marketing areas, which have been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered, That this entire tentative decision and the two documents annexed hereto, be published in the Federal Register.

Determination of Producer Approval and Representative Period

August 1989 (except July 1989 for the Chicago Regional and Upper Midwest marketing areas) is hereby determined to be the representative period for the purpose of ascertaining whether the issuance of the orders, as amended and as hereby proposed to be amended, regulating the handling of milk in the aforesaid marketing areas, except the Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, and Nashville, Tennessee, marketing areas is approved or favored by producers, as defined under the terms of each of the orders (as amended and as hereby proposed to be amended), who during such representative period were engaged in the production of milk for sale within the respective marketing areas.

Referendum Order to Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agents

It is hereby directed that referendums be conducted and completed on or before the 15th day from the date this decision is issued, in accordance with the procedure for the conduct of referenda (7 CFR 900.300-900.311), to determine whether the issuance of the orders as amended and as hereby proposed to be amended by an interim order, regulating the handling of milk in the Eastern Ohio-Western Pennsylvania, Louisville-Lexington-Evansville, Alabama-West Florida, and Nashville, Tennessee, marketing areas are approved or favored by producers, as defined under the terms of the orders (as amended and as hereby proposed to be amended), who during the representative period were engaged in the production of milk for sale within the aforesaid marketing areas.

The representative period for the conduct of such referendums is hereby determined to be August 1989.

The agents of the Secretary to conduct such referendums are hereby designated to be C. Mack Endsley (Eastern Ohio-Western Pennsylvania), Arnold M. Stallings (Louisville-Lexington-Evansville, and Nashville, Tennessee), and Dormal Newberry (Alabama-West Florida).

List of Subjects in 7 CFR Parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139

Milk marketing orders, Milk, Dairy products.

Signed at Washington, DC on November 8, 1989.

Jo Ann B. Smith,

Assistant Secretary for Marketing and Inspection Services.

Interim Order Amending the Orders, Regulating the Handling of Milk in Certain Specified Marketing Areas

This interim order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) *Findings.* A public hearing was held upon certain proposed amendments to the tentative marketing agreements and to the orders regulating the handling of milk in the aforesaid marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601-674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at the hearing and the record hereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of

feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing areas; and the minimum prices specified in the orders as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, marketing agreements upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered that on and after the effective date hereof, the handling of milk in each of the specified marketing areas shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

1. The authority citation for CFR Parts 1006, 1007, 1011, 1012, 1013, 1030, 1032, 1033, 1036, 1040, 1046, 1049, 1050, 1064, 1065, 1068, 1076, 1079, 1093, 1094, 1096, 1097, 1098, 1099, 1106, 1108, 1120, 1124, 1126, 1131, 1132, 1134, 1135, 1137, 1138, and 1139 continues to read as follows:

Authority: Secs 1-19, 48 Stat. 31, as amended; 7 U.S.C. 601-674.

PART 1006—MILK IN THE UPPER FLORIDA MARKETING AREA

2. In § 1006.50(b), the introductory text is revised to read as follows:

§ 1006.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1006.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

3. Section 1006.53 is revised to read as follows:

§ 1006.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1006.50(b).

PART 1007—MILK IN THE GEORGIA MARKETING AREA

4. In § 1007.50(b), the introductory text is revised to read as follows:

§ 1007.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1007.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraph (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

5. Section 1007.53 is revised to read as follows:

§ 1007.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1007.50(b).

PART 1011—MILK IN THE TENNESSEE VALLEY MARKETING AREA

6. In § 1011.50(b), the introductory text is revised to read as follows:

§ 1011.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1011.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this

section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

* * * * *

7. Section 1011.53 is revised to read as follows:

§ 1011.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1011.50(b).

PART 1012—MILK IN THE TAMPA BAY MARKETING AREA

8. In § 1012.50(b), the introductory text is revised to read as follows:

§ 1012.50 Class prices.

* * * * *

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1012.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the basic formula price for the second preceding month.

* * * * *

9. Section 1012.53 is revised to read as follows:

§ 1012.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the basic formula price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1012.50(b).

PART 1013—MILK IN THE SOUTHEASTERN FLORIDA MARKETING AREA

10. In § 1013.50(b), the introductory text is revised to read as follows:

§ 1013.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1013.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the Class II price for the second preceding month was less than the Class III price for the second preceding month.

11. Section 1013.53 is revised to read as follows:

§ 1013.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1013.50(b).

PART 1030—MILK IN THE CHICAGO REGIONAL MARKETING AREA

12. In § 1030.50(b), the introductory text is revised to read as follows:

§ 1030.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1030.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

13. Section 1030.53 is revised to read as follows:

§ 1030.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the

Class II price for the following month computed pursuant to § 1030.50(b).

PART 1032—MILK IN THE SOUTHERN ILLINOIS-EASTERN MISSOURI MARKETING AREA

14. In § 1032.50(b), the introductory text is revised to read as follows:

§ 1032.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1032.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

15. Section 1032.53 is revised to read as follows:

§ 1032.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1032.50(b).

PART 1033—MILK IN THE OHIO VALLEY MARKETING AREA

16. In § 1033.27, paragraphs (k)(1) and (k)(3) are revised to read as follows:

§ 1033.27 Additional duties of the market administrator.

- (k) Publicly announce on or before:
 - (1) The 5th day of each month:
 - (i) The Class I price for the following month;
 - (ii) The Class III price for the preceding month;
 - (iii) The butterfat differential for the preceding month;
 - (3) The 15th day of each month, the Class II price for the following month computed pursuant to § 1033.51(b).

17. In § 1033.51(b), the introductory text is revised to read as follows:

§ 1033.51 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1033.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

PART 1036—MILK IN THE EASTERN OHIO-WESTERN PENNSYLVANIA MARKETING AREA

18. In § 1036.50(b), the introductory text is revised to read as follows:

§ 1036.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1036.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

19. Section 1036.53 is revised to read as follows:

§ 1036.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1036.50(b).

PART 1040—MILK IN THE SOUTHERN MICHIGAN MARKETING AREA

20. In § 1040.50(b), the introductory text is revised to read as follows:

§ 1040.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula computed pursuant to § 1040.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

21. Section 1040.53 is revised to read as follows:

§ 1040.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class II price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1040.50(b).

PART 1046—MILK IN THE LOUISVILLE-LEXINGTON-EVANSVILLE MARKETING AREA

22. In § 1046.50(b), the introductory text is revised to read as follows:

§ 1046.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1046.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

23. Section 1046.53 is revised to read as follows:

§ 1046.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the

Class II price for the following month computed pursuant to § 1046.50(b).

PART 1049—MILK IN THE INDIANA MARKETING AREA

24. In § 1049.50(b), the introductory text is revised to read as follows:

§ 1049.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1049.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

25. Section 1049.53 is revised to read as follows:

§ 1049.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1049.50(b).

PART 1050—MILK IN THE CENTRAL ILLINOIS MARKETING AREA

26. In § 1050.50(b), the introductory text is revised to read as follows:

§ 1050.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1050.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

27. Section 1050.53 is revised to read as follows:

§ 1050.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1050.50(b).

PART 1064—MILK IN THE GREATER KANSAS CITY MARKETING AREA

28. In § 1064.50(b), the introductory text is revised to read as follows:

§ 1064.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1064.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

29. Section 1064.53 is revised to read as follows:

§ 1064.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1064.50(b).

PART 1065—MILK IN THE NEBRASKA-WESTERN IOWA MARKETING AREA

30. In § 1065.50(b), the introductory text is revised to read as follows:

§ 1065.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1065.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed

pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

31. Section 1065.53 is revised to read as follows:

§ 1065.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1065.50(b).

PART 1068—MILK IN THE UPPER MIDWEST MARKETING AREA

32. In § 1068.50(b), the introductory text is revised to read as follows:

§ 1068.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1068.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

33. Section 1068.53 is revised to read as follows:

§ 1068.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1068.50(b).

PART 1076—MILK IN THE EASTERN SOUTH DAKOTA MARKETING AREA

34. In § 1076.50(b), the introductory text is revised to read as follows:

§ 1076.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the

Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1076.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

35. Section 1076.53 is revised to read as follows:

§ 1076.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1076.50(b).

PART 1079—MILK IN THE IOWA MARKETING AREA

36. In § 1079.50(b), the introductory text is revised to read as follows:

§ 1079.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1079.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

37. Section 1079.53 is revised to read as follows:

§ 1079.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1079.50(b).

PART 1093—MILK IN THE ALABAMA-WEST FLORIDA MARKETING AREA

38. In § 1093.50(b), the introductory text is revised to read as follows:

§ 1093.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1093.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

39. Section 1093.53 is revised to read as follows:

§ 1093.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1093.50(b).

PART 1094—MILK IN THE NEW ORLEANS-MISSISSIPPI MARKETING AREA

40. In § 1094.50(b), the introductory text is revised to read as follows:

§ 1094.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1094.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

41. Section 1094.53 is revised to read as follows:

§ 1094.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1094.50(b).

PART 1096—MILK IN THE GREATER LOUISIANA MARKETING AREA

42. In 1096.50(b), the introductory text is revised to read as follows:

§ 1096.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1096.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

43. Section 1096.53 is revised to read as follows:

§ 1096.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1096.50(b).

PART 1097—MILK IN THE MEMPHIS, TENNESSEE MARKETING AREA

44. In § 1097.50(b), the introductory text is revised to read as follows:

§ 1097.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II Formula price computed pursuant to § 1097.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the

second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

45. Section 1097.53 is revised to read as follows:

§ 1097.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1097.50(b).

PART 1098—MILK IN THE NASHVILLE, TENNESSEE MARKETING AREA

46. In § 1098.50(b), the introductory text is revised to read as follows:

§ 1098.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1098.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

47. Section 1098.53 is revised to read as follows:

§ 1098.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1098.50(b).

PART 1099—MILK IN THE PADUCAH, KENTUCKY MARKETING AREA

48. In § 1099.50(b), the introductory text is revised to read as follows:

§ 1099.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1099.51a for the month plus the amount that the value computed

pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

49. Section 1099.53 is revised to read as follows:

§ 1099.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1099.50(b).

PART 1106—MILK IN THE SOUTHWEST PLAINS MARKETING AREA

50. In § 1106.50(b), the introductory text is revised to read as follows:

§ 1106.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1106.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

51. Section 1106.53 is revised to read as follows:

§ 1106.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1106.50(b).

PART 1108—MILK IN THE CENTRAL ARKANSAS MARKETING AREA

52. In § 1108.50(b), the introductory text is revised to read as follows:

§ 1108.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1108.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

53. Section 1108.53 is revised to read as follows:

§ 1108.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1108.50(b).

PART 1120—MILK IN THE LUBBOCK-PLAINVIEW, TEXAS MARKETING AREA

54. In § 1120.50(b), the introductory text is revised to read as follows:

§ 1120.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1120.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

55. Section 1120.53 is revised to read as follows:

§ 1120.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or

before the 15th day of each month the Class II price for the following month computed pursuant to § 1120.50(b).

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

56. In § 1124.50(b), the introductory text is revised to read as follows:

§ 1124.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1124.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

57. Section 1124.53 is revised to read as follows:

§ 1124.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1124.50(b).

PART 1126—MILK IN THE TEXAS MARKETING AREA

58. In § 1126.50(b), the introductory text is revised to read as follows:

§ 1126.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1126.51(a) for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2)

of this section, was less than the Class III price for the second preceding month.

59. Section 1126.53 is revised to read as follows:

§ 1126.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1126.50(b).

PART 1131—MILK IN THE CENTRAL ARIZONA MARKETING AREA

60. In § 1131.50(b), the introductory text is revised to read as follows:

§ 1131.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1131.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

61. Section 1131.53 is revised to read as follows:

§ 1131.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1131.50(b).

PART 1132—MILK IN THE TEXAS PANHANDLE MARKETING AREA

62. In § 1132.50(b), the introductory text is revised to read as follows:

§ 1132.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The

Class II price shall be the basic Class II formula price computed pursuant to § 1132.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

63. Section 1132.53 is revised to read as follows:

§ 1132.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1132.50(b).

PART 1134—MILK IN THE WESTERN COLORADO MARKETING AREA

64. In § 1134.50(b), the introductory text is revised to read as follows:

§ 1134.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1134.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

65. Section 1134.53 is revised to read as follows:

§ 1134.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1134.50(b).

PART 1135—MILK IN THE SOUTHWESTERN IDAHO-EASTERN OREGON MARKETING AREA

66. In § 1135.50(b), the introductory text is revised to read as follows:

§ 1135.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1135.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

67. Section 1135.53 is revised to read as follows:

§ 1135.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1135.50(b).

PART 1137—MILK IN THE EASTERN COLORADO MARKETING AREA

68. In § 1137.50(b), the introductory text is revised to read as follows:

§ 1137.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1137.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

69. Section 1137.53 is revised to read as follows:

§ 1137.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1137.50(b).

PART 1138—MILK IN THE RIO GRANDE VALLEY MARKETING AREA

70. In § 1138.50(b), the introductory text is revised to read as follows:

§ 1138.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1138.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III price for the second preceding month.

71. Section 1138.53 is revised to read as follows:

§ 1138.53 Announcement of class prices.

The market administrator shall announce publicly on or before the fifth day of each month the Class I price for the following month, the Class III price for the preceding month, and on or before the 15th day of each month the Class II price for the following month computed pursuant to § 1138.50(b).

PART 1139—MILK IN THE GREAT BASIN MARKETING AREA

72. In § 1139.50(b), the introductory text is revised to read as follows:

§ 1139.50 Class prices.

(b) *Class II price.* The Class II price shall be computed by the Director of the Dairy Division and transmitted to the market administrator on or before the 15th day of the preceding month. The Class II price shall be the basic Class II formula price computed pursuant to § 1139.51a for the month plus the amount that the value computed pursuant to paragraph (b)(1) of this section exceeds the value computed

pursuant to paragraph (b)(2) of this section, plus any amount by which the basic Class II formula price for the second preceding month, adjusted pursuant to paragraphs (b)(1) and (b)(2) of this section, was less than the Class III for the second preceding month.

73. Section 1139.53 is revised to read as follows:

§ 1139.53 Announcement of class and component prices.

The market administrator shall announce on or before:

- (a) The 5th day of each month, the Class I price for the following month;
- (b) The 15th of each month, the Class II price for the following month computed pursuant to § 1139.50(b); and
- (c) The 5th day after the end of each month, the Class III price and the prices for butterfat, milk protein and skim milk computed pursuant to § 1139.50 (d), (e) and (f) for each month.

PARTS 1001, 1002, 1004 and 1005

There are no proposed provisions applicable to 7 CFR parts 1001, 1002, 1004 and 1005 at this time.

Marketing Agreement Regulating the Handling of Milk in Certain Marketing Areas

The parties hereto, in order to effectuate the declared policy of the Act, and in accordance with the rules of practice and procedure effective thereunder (7 CFR part 900), desire to enter into this marketing agreement and do hereby agree that the provisions referred to in paragraph I hereof as augmented by the provisions specified in paragraph II hereof, shall be and are the provisions of this marketing agreement as if set out in full herein.

I. The findings and determinations, order relative to handling, and the provisions of §§ ____¹ to ____², all inclusive, of the order regulating the handling of milk in the (name of order) marketing area (7 CFR part ____³) which is annexed hereto; and

II. The following provisions:
§ ____³ Record of milk handled and authorization to correct typographical errors.
(a) Record of milk handled. The undersigned certifies that he handled during the month of _____ hundredweight of milk covered by this marketing agreement.

(b) Authorization to correct typographical errors. The undersigned hereby authorizes the Director, or Acting Director, Dairy Division, Agricultural Marketing Service, to correct any typographical errors which may have been made in this marketing agreement.

§ ____³ Effective date. This marketing agreement shall become effective upon the execution of a counterpart hereof by the Secretary in accordance with § 900.14(a) of the aforesaid rules of practice and procedure.

In Witness Whereof, The contracting handlers, acting under the provisions of the Act, for the purposes and subject to the limitations herein contained and not otherwise, have hereunto set their respective hands and seals.

(Signature)

(Seal)

By (Name) (Title)

(Address)

Attest

Date

[FR Doc. 89-26751 Filed 11-14-89; 8:45 am]

BILLING CODE 3410-02-M

DEPARTMENT OF TRANSPORTATION

Research and Special Programs Administration

49 CFR Parts 171, 172, and 173

[Docket No. HM-198A, Notice No. 89-6]

Elevated Temperature Materials; Extension of Comment Period

AGENCY: Research and Special programs Administration (RSPA), DOT.

ACTION: Proposed rule; Extension of comment period.

SUMMARY: On September 21, 1989, RSPA published a notice of proposed rulemaking (NPRM) in the Federal Register, which invited public comment on a proposal to regulate materials which pose a hazard in transportation due to their elevated temperatures (Docket HM-198A, Notice No. 89-6, 54 FR 38930). RSPA has received several requests from petitioners seeking an extension of the comment period in order to have more time to evaluate the proposals contained in the NPRM. RSPA concurs with the requests and is extending the comment period by 90 days.

DATES: The closing date for filing comments is extended from November 20, 1989, to February 20, 1990.

ADDRESS: Address comments to Dockets Unit (DHM-30), Office of Hazardous Materials Transportation, RSPA, U.S. Department of Transportation, Washington, DC 20590. Comments should identify the docket and notice number and be submitted, when possible, in five copies. Persons wishing to receive confirmation of receipt of their comments should include a self-addressed, stamped postcard. The Dockets Unit is located in Room 8421 of the Nassif Building, 400 Seventh Street SW., Washington, DC 20590. Office hours are 8:30 am to 5:00 pm Monday through Friday, except public holidays.

FOR FURTHER INFORMATION CONTACT: Beth Romo, Standards Division, (202) 368-4488, or James K. O'Steen, Technical Division, (202) 368-4545, Office of Hazardous Materials Transportation, 400 Seventh St SW., Washington, DC 20590.

SUPPLEMENTARY INFORMATION: On September 21, 1989, RSPA published a notice of proposed rulemaking in the Federal Register (Docket HM-198A, Notice No. 89-6, 54 FR 38930). The NPRM invited public comment on a proposal to regulate materials which pose a hazard due to their elevated temperatures while transported. RSPA has received petitions from Shell Oil Company, the Aluminum Recyclers Association, the Asphalt Institute, and the Aluminum Association citing the potential impact of the proposal on a number of diverse organizations and industries, many of whom manufacture and ship materials currently not subject to the Hazardous Materials Regulations. The petitioners requested additional time to evaluate the proposal contained in the NPRM. RSPA agrees additional time should be allowed and is granting an extension of 90 days for submitting comments.

Issued in Washington, DC on November 8, 1989, under authority delegated in 49 CFR part 106, Appendix A.

Alan I. Roberts,

Director, Office of Hazardous Materials Transportation.

[FR Doc. 89-26722 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

¹ First and last sections of order.

² Appropriate part number.

³ Next consecutive section number.

Notices

Federal Register

Vol. 54, No. 219

Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forms Under Review by Office of Management and Budget

November 10, 1989.

The Department of Agriculture has submitted to OMB for review the following proposals for the collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35) since the last list was published. This list is grouped into new proposals, revisions, extensions, or reinstatements. Each entry contains the following information:

(1) Agency proposing the information collection; (2) Title of the information collection; (3) Form number(s), if applicable; (4) How often the information is requested; (5) Who will be required or asked to report; (6) An estimate of the number of responses; (7) An estimate of the total number of hours needed to provide the information; (8) An indication of whether section 3504(h) of Public Law 96-511 applies; (9) Name and telephone number of the agency contact person.

Questions about the items in the listing should be directed to the agency person named at the end of each entry. Copies of the proposed forms and supporting documents may be obtained from: Department Clearance Officer, USDA, OIRM, Room 404-W Admin. Bldg. Washington, DC 20250, (202) 447-2118.

Revision

- Food and Nutrition Service
Child Nutrition Program Operations Study
None
One-time data collection
State or local governments; Non-profit institutions; 2,471 responses; 1,240 hours; not applicable under 3504(h)
John Endahl (703) 756-3115
- Economic Research Service
Agricultural Land Values & Markets Survey

None

Quarterly; Annually

Farms; Businesses or other for-profit; Federal agencies or employees; Non-profit institutions; Small businesses or organizations; 21,360 responses; 3,985 hours; not applicable under 3504(b)

Roger Hexem (202) 786-1422

Extension

- Food Nutrition Service
Coupon Account and Destruction Report

None

Monthly

State or local governments 78,888 responses; 22,971 hours; not applicable under 3504(h)

David Walters 703 756-3385

Reinstatement

- Farmers Home Administration
7 CFR 1951-E, Servicing of Community Program Loans and Grants 1951-33, 1951-15

On occasion

State or local governments; Non-profit institutions; 180 responses; 120 hours; not applicable under 3504(h)

Jack Holston (202) 382-9736

New Collection

- Food and Nutrition Service
Food Distribution Commodity Acceptability Report FNS-663

Semi-Annually; Annually

State or local governments; 758 responses; 15,898 hours; not applicable under 3504(h)

Dale Wingo (703) 756-3544

- Food and Nutrition Service
Storage and Distribution Costs—Temporary Emergency Food Assistance Program

FNS-666

Quarterly

State or local governments; 275 responses; 963 hours; not applicable under 3504(h)

Chris Lipsey (703) 756-3048

Larry K. Roberson,

Acting Departmental Clearance Officer.

[FR Doc. 89-26850 Filed 11-14-89; 8:45 am]

BILLING CODE 3410-01-M

DEPARTMENT OF COMMERCE

Bureau of the Census

1990 Census Public Law 94-171 Program

This notice provides information for the officers or public bodies having initial responsibility for legislative apportionment or districting of each state.

In order to ensure full compliance with the requirements of Public Law 94-171 (13 United States Code 141(c)), the Bureau of the Census is requesting certification from governors and legislative leaders in all states participating in Phase 2 of the 1990 Census Public Law 94-171 Program that the Phase 2 Census Block Maps are being developed in a nonpartisan manner. Moreover, the Bureau of the Census plans to distribute population counts and completed maps by April 1, 1991 to state officials in a nonpartisan manner.

Requests for certification have been sent to the governor and leaders of the majority and minority parties in the House and Senate of each state, as well as the individual(s) designated by state officials as the liaison responsible for working with the Bureau of the Census on this program. Copies of such letters are available on request from the Director, Bureau of the Census, Washington, DC 20233.

Under the provisions of Public Law 94-171, the Bureau of the Census must provide each state with 1990 census population counts for legislative redistricting. In addition to counts by standard geographic areas (counties, minor civil or census county divisions, incorporated places, census tracts, census blocks nationwide, and so forth), the Census Bureau will provide population counts by voting district in participating states by aggregating data for census blocks within those voting districts that meet the criteria issued by the Census Bureau for this program.

The Bureau of the Census is requesting that the above-referenced state officials send a single, jointly signed letter to the Director of the Bureau of the Census by November 30,

1989 certifying that the Phase 2 maps are being developed in a nonpartisan manner. If such a letter is not received by this date, the Bureau of the Census will not begin entering the voting district designations for any maps returned and thus cannot ensure timely reporting of population counts for such precincts. Any questions or issues relating to this requirement should be directed to Marshall Turner, Chief, 1990 Census Redistricting Data Office at 301-763-3856.

A similar letter jointly signed by the same individuals must be forwarded along with the final submission of maps. If such a letter is not provided, the state will not receive population counts on April 1, 1991 for the voting districts designated on any maps completed and sent to the Bureau of the Census. Instead, the Bureau of the Census will provide population data to the state by the standard geographic units and census blocks.

The Bureau of the Census urges state officials to cooperate fully in marking the Phase 2 maps in a nonpartisan manner. If any of the above-referenced state officials are denied access to the Phase 2 maps, the Bureau of the Census will, where necessary, provide copies of the unmarked maps upon written request by such leader. Any request for copies of maps must be received by November 30, 1989. Such additional maps will be provided for information purposes, as the Bureau of the Census can accept only one set of precinct designations.

The Bureau of the Census will also disseminate both the population counts and the completed state block maps by April 1, 1991 in a nonpartisan manner. As indicated above, however, counts will not be reported by voting districts if the Phase 2 maps were not returned on time or were not accompanied by the certifying letters referenced above. Participation by a state in the Public Law 94-171 Program is voluntary, and a state may choose to limit its participation to only selected counties. General questions concerning the program should be addressed to the Director, Bureau of the Census, Washington, DC 20233.

Dated: November 8, 1989.

C.L. Kincannon,

Deputy Director, Bureau of the Census.

[FR Doc. 89-26818 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-07-M

[A-588-021]

International Trade Administration

Cell-Site Transceivers and Related Subassemblies From Japan; Final Results of Antidumping Duty Administrative Review and Revocation of Antidumping Duty Order

AGENCY: International Trade Administration/Import Administration, Commerce.

ACTION: Notice of final results of antidumping duty administrative review and revocation of antidumping duty order.

SUMMARY: On July 11, 1989, the Department of Commerce published the preliminary results of its administrative review and intent to revoke of the antidumping order on cell-site transceivers and related subassemblies from Japan. The review covers one manufacturer/exporter of Japanese cell-site transceivers and related subassemblies to the United States and the period January 1, 1988 through July 28, 1988. There were no known shipments of this merchandise to the United States and there were no known unliquidated entries.

We gave interested parties an opportunity to comment on our preliminary results of review and intent to revoke. We received no comments, and our final results are unchanged from those presented in our preliminary results of review. These final results cover up to the date of our tentative determination to revoke the antidumping duty order on cell-site transceivers and related subassemblies from Japan.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: Michael J. Heaney or Richard Rimlinger, Office of Antidumping Compliance, International Trade Administration, U.S. Department of Commerce, Washington, DC 20230; telephone: (202) 377-4195/2923.

SUPPLEMENTARY INFORMATION:

Background

On July 11, 1989, the Department of Commerce ("the Department") published in the *Federal Register* (54 FR 29077) the preliminary results of its administrative review and intent to revoke on cell-site transceivers and related subassemblies from Japan. We have now completed the administrative review in accordance with section 751 of the Tariff Act of 1930 ("the Tariff Act").

Scope of the Review

Imports covered by the review are cell-site transceivers and related

subassemblies which are part of the radio frequency (RF) equipment in the base station of a cellular radio communications system. This single-package equipment functions as a locating receiver and provides simultaneous two-way voice and data communications between the base station and the subscriber's mobile telephone by using different frequencies to transmit and receive. Subassemblies are an assemblage of parts dedicated for use in cell-site transceivers as defined above. During the review period such merchandise was classifiable under "Tariff Schedules of the United States Annotated" item numbers 685.2810 and 685.2820. Such merchandise is currently classified under HTS item numbers 8525.20.15, 8525.20.20, and 8525.20.30. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive.

The review covers one manufacturer/exporter of this merchandise to the U.S., Kokusai Electric Company, Ltd. ("Kokusai"), and the period January 1, 1988 through July 28, 1988. There were no known shipments by Kokusai of this merchandise to the United States during the period and there are no known unliquidated entries.

Final Results of Review and Revocation of the Antidumping Order

We invited interested parties to comment on the preliminary results of review and intent to revoke. We received no comments. Based on our analysis, the final results of review are unchanged from those presented in the preliminary results of review.

In accordance with § 353.54 of our 1988 Regulations we are revoking the antidumping duty order. The revocation applies to all unliquidated entries of this merchandise of Japanese origin entered, or withdrawn from warehouse for consumption after July 28, 1988, the date of our tentative determination to revoke the order.

This administrative review, revocation, and notice are in accordance with sections 751 (a)(1) and (c) of the Tariff Act (19 U.S.C. 1675 (a)(1), (c)) and §§ 353.53a and 353.54 of the Commerce Regulations (19 CFR 353.53a, 353.54) (1988).

Dated: November 6, 1989.

Lisa B. Barry,

Acting Assistant Secretary for Import Administration.

[FR Doc. 89-26819 Filed 11-14-89; 8:15 am]

BILLING CODE 3510-DS-M

[A-201-801]

Preliminary Determination of Sales at Less Than Fair Value; Certain Steel Pails From Mexico

AGENCY: Import Administration, International Trade, Administration, Commerce.

ACTION: Notice.

SUMMARY: We preliminarily determine that certain steel pails from Mexico (hereinafter steel pails) are being, or are likely to be, sold in the United States at less than fair value. We have notified the U.S. International Trade Commission (ITC) of our determination and have directed the U.S. Customs Service to suspend liquidation of all entries of steel pails from Mexico as described in the "Suspension of Liquidation" section of this notice. If this investigation proceeds normally, we will make a final determination by January 22, 1990.

EFFECTIVE DATE: November 15, 1989.

FOR FURTHER INFORMATION CONTACT: David J. Goldberger or Bradford Ward, Office of Antidumping Investigations, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 377-4136 and 377-5288, respectively.

SUPPLEMENTARY INFORMATION:**Preliminary Determination**

We preliminarily determine that steel pails from Mexico are being, or are likely to be, sold in the United States at less than fair value, as provided in section 733 of the Tariff Act of 1930, as amended (19 U.S.C. 1673b) (the Act). The estimated margins are shown in the "Suspension of Liquidation" section of this notice.

Case History

Since the notice of initiation (54 FR 26825, June 26, 1989), the following events have occurred:

On July 17, 1989, the ITC preliminarily determined that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Mexico of steel pails (54 FR 31090, July 26, 1989).

On July 14, 1989, the Department presented its questionnaire to Envases de Plastico, S.A. de C.V. (Envases). This company accounted for virtually all of the exports of the subject merchandise from Mexico to the United States during the period of investigation. We received responses on July 31 and August 28, 1989.

The Department issued deficiency letters to Envases on August 14 and September 11, 1989. We received the supplemental responses on August 28 and September 25, 1989, including revised computer tapes on the latter date. Additional revised computer tapes were submitted on October 6, 1989.

Scope of Investigation

The United States has developed a system of tariff classification based on the international harmonized system of customs nomenclature. On January 1, 1989, the United States fully converted to the Harmonized Tariff Schedule (HTS) as provided for in section 1201 *et seq.* of the Omnibus Trade and Competitiveness Act of 1988. All merchandise entered or withdrawn from warehouse for consumption on or after this date will be classified solely according to the appropriate HTS item numbers. The HTS item numbers are provided for convenience and Customs purposes. The written description remains dispositive as to the scope of the product coverage.

Prior to January 1, 1989, certain steel pails were classified under item 640.3020 of the "Tariff Schedules of the United States Annotated" (TSUSA). This merchandise is currently classifiable under HTS subheadings 7310.21.00 and 7310.29.00.

The scope of this investigation includes certain steel pails from Mexico which are cylindrical containers of steel, with a volume (capacity) of 1 through 7 gallons, an outside diameter of 11 1/4 inches or greater, and a wall thickness of 29-22 gauge steel, presented empty, whether or not coated or lined. This investigation includes, but is not limited to, openhead, tighthead, and dome top steel pails.

The preceding description contains a minor clarification of the scope as published in our notice of initiation.

Period of Investigation

The period of investigation is January 1, 1989 through June 30, 1989.

Such or Similar Comparisons

We have determined that all of the steel pails covered by the investigation constitute one such or similar category.

Product comparisons were made on the basis of the following criteria, listed in order of importance: volume (capacity), steel gauge, type of opening, interior lining, fittings and lithography.

Where there were no sales of identical merchandise in the home market with which to compare merchandise sold in the United States, sales of the most similar merchandise were compared on the basis of the

characteristics described above. We made adjustments for differences in the physical characteristics of the merchandise in accordance with section 773(a)(4)(C) of the Act.

Envases contends that in addition to the above criteria, the Department should match U.S. sales with home market sales of comparable quantities, as provided for in § 353.55 of the Department's regulations published in the *Federal Register* on March 28, 1989 (54 FR 12742) (to be codified at 19 CFR 353.55). To that end, Envases argues that the Department should only make its product comparisons within groups consisting of sales to large volume customers and sales to small volume customers, as defined by Envases. Product matching within sales volume categories would take precedence over matches for physical characteristics.

For purposes of the preliminary determination, we have not taken into account the customer sales volume categories identified by Envases because the categorization of its customers in the sales listing appears inconsistent with Envases' narrative explanation of its pricing policies with respect to large and small volume customers. In addition, Envases has not demonstrated that any price differential between large and small volume customers is wholly or partly due to any differences in quantities sold to these customers.

For these reasons, we have made product comparisons based solely on the physical characteristics of the products. However, we will examine the issue of sales volume categories further at verification and will consider it for purposes of the final determination.

Fair Value Comparisons

To determine whether sales of steel pails from Mexico to the United States were made at less than fair value, we compared the United States price to the foreign market value, as specified in the "United States Price" and "Foreign Market Value" sections of this notice.

United States Price

As provided for in section 772(b) of the Act, we used the purchase price of the subject merchandise to represent the United States price, where the merchandise was sold to unrelated purchasers prior to importation into the United States. We calculated purchase price based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, brokerage and handling, foreign inland freight, and U.S. inland freight, in

accordance with section 772(d)(2) of the Act.

Where the merchandise was sold to unrelated purchasers after importation into the United States, we used exporter's sales price (ESP) to represent the United States price, as provided for in section 772(c) of the Act. We calculated ESP based on CIF prices to unrelated customers in the United States. We made deductions, where appropriate, for rebates, commissions, foreign inland freight, brokerage and handling, U.S. inland freight, credit expenses, and indirect U.S. selling expenses.

We recalculated the indirect selling expenses reported by Envases on ESP sales to allocate them on the basis of U.S. sales value, rather than sales volume. We based the unit price in this recalculation on the gross price net of rebates.

Foreign Market Value

In accordance with section 773(a)(1)(A) of the Act, we calculated foreign market value based on home market sales. We calculated foreign market value based on the packed, delivered prices to unrelated customers in Mexico. We made deductions, where appropriate, for inland freight and rebates. We deducted home market packing costs and added U.S. packing costs.

On comparisons involving purchase price sales, we added U.S. commissions to the foreign market value and subtracted home market indirect selling expenses up to the amount of the commission paid on U.S. sales, in accordance with § 353.56(b)(1) of the Department's regulations. We made a circumstance of sale adjustment for differences in credit terms.

On comparisons involving ESP sales, we deducted credit expenses. We also deducted indirect selling expenses, in accordance with § 353.56(b)(2) of the Department's regulations.

Where appropriate, we made further adjustments to the home market price to account for differences in the physical characteristics of the merchandise, in accordance with § 353.57 of the Department's regulations.

Because Envases' claimed credit expenses reported in the sales listing did not consistently equal an amount based on the formula reported in the questionnaire response, we recalculated the imputed credit expense. Our recalculation used the formula contained in the questionnaire response, basing unit price on the gross price to the unrelated customer.

Similarly, Envases' claimed inventory carrying expenses did not consistently

equal an amount based on the formula reported in the questionnaire response. We recalculated this expense according to the formula contained in the questionnaire response, basing unit price on the gross price to the unrelated customer.

We recalculated the indirect selling expenses reported by Envases on home market sales to allocate them on the basis of sales value, rather than sales volume. We based the unit price in this recalculation on the gross price net of rebates.

Currency Conversion

No certified rates of exchange, as furnished by the Federal Reserve Bank of New York, were available for the period of investigation. In place of the official certified rates, we used the average monthly exchange rates in the controlled market published by the International Monetary Fund as best information available.

Verification

As provided in section 776(b) of the Act, we will verify all information used in reaching the final determination in this investigation.

Suspension of Liquidation

In accordance with section 733(d)(1) of the Act, we are directing the U.S. Customs Service to suspend liquidation of all entries of steel pails, as defined in the "Scope of Investigation" section of this notice, that are entered or withdrawn from warehouse for consumption on or after the date of publication of this notice in the *Federal Register*. The U.S. Customs Service shall require a cash deposit or posting of a bond equal to the estimated amounts by which the foreign market value of steel pails exceeds the United States price as shown below. This suspension of liquidation will remain in effect until further notice. The margins are as follows:

Manufacturer/Producer/Exporter	Weighted-average margin percentage
Envases de Plastico, S.A. de C.V.	67.71
All others	67.71

ITC Notification

In accordance with section 733(f) of the Act, we have notified the ITC of our determination. In addition, we are making available to the ITC all nonprivileged and nonproprietary information relating to this investigation. We will allow the ITC access to all privileged and business

proprietary information in our files, provided the ITC confirms that it will not disclose such information, either publicly or under administrative protective order, without the written consent of the Deputy Assistant Secretary for Investigations, Import Administration.

The ITC will determine whether these imports are materially injuring, or threaten material injury to, a U.S. industry before the latter of 120 days after the date of this determination, or 45 days after the Department makes its final determination, if affirmative.

Public Comment

In accordance with § 353.38 of the Commerce Department's regulations, case briefs or other written comments in at least ten copies must be submitted to the Assistant Secretary no later than December 29, 1989, and rebuttal briefs no later than January 5, 1990. In accordance with § 353.38(b) of the Department's regulations, we will hold a public hearing, if requested, to afford interested parties an opportunity to comment on arguments raised in case or rebuttal briefs. The hearing will be held at 10:00 a.m. on January 9, 1990, at the U.S. Department of Commerce, Room 3708, 14th Street and Constitution Avenue, NW., Washington, DC 20230. Interested parties who wish to participate in the hearing must submit a written request to the Assistant Secretary for Import Administration, U.S. Department of Commerce, Room B-099 within 10 days of the publication of this notice. Requests should contain: (1) The party's name, address, and telephone number; (2) the number of participants; (3) the reasons for attending; and (4) a list of the issues to be discussed. In accordance with § 353.38(b) of the Department's regulations, oral presentations will be limited to issues raised in the briefs.

This determination is published pursuant to section 733(f) of the Act (19 U.S.C. 1673b(f)).

Dated: November 7, 1989.

Eric I. Garfinkel,

Assistant Secretary for Import Administration.

[FR Doc. 89-26820 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DS-M

National Oceanic and Atmospheric Administration

Marine Mammals

AGENCY: National Marine Fisheries Service, NOAA, Commerce.

ACTION: Modification No. 1 to Permit No. 675 (P440).

Notice is hereby given that pursuant to the provisions of § 216.33 (d) and (2) of the Regulations Governing the Taking and Importing of Marine Mammals (50 CFR part 216), and § 220.24 of the Regulations Governing Endangered Species (50 CFR parts 217-222), Scientific Research Permit No. 675 issued to Department of Health & Human Services, Section of Genetics, Building 560, room 21-105, National Cancer Institute, Frederick, Maryland 21701-1013 on August 4, 1989 (54 FR 35220) is modified as follows:

Section A.1. is revised to read:

1. Up to 400 humpback whales (*Megaptera novaeangliae*) may be taken by harassment, including photoidentification and the collection of skin biopsies in the territorial waters of the United States, including the coastal waters of the continental U.S., Alaska, Hawaii, the Mariana Islands, and the Antarctic continent for a 5-year period.

This modification is effective upon publication in the **Federal Register**.

Documents submitted in connection with the above application are available for review in the following offices:

Office of Protected Resources and Habitat Programs, National Marine Fisheries Service, 1335 East West Highway, room 7330, Silver Spring, Maryland 20910;
Director, Alaska Region, National Marine Fisheries Service, NOAA, 709 West 9th Street, Federal Bldg., Juneau, Alaska 99802;
Director, Northeast Region, National Marine Fisheries Service, NOAA, One Blackburn Drive, Gloucester, Massachusetts 01930;
Director, Northwest Region, National Marine Fisheries Service, NOAA, 7600 Sand Point Way, NE., BIN C15700, Seattle, Washington 98115;

Director, Southeast Region, National Marine Fisheries Service, NOAA, 9450 Koger Boulevard, St. Petersburg, Florida 33702;
Director, Southwest Region, National Marine Fisheries Service, NOAA, 300 South Ferry Street, Terminal Island, California 90731-7415; and

Administrator, Western Pacific Program Office, National Marine Fisheries Service, NOAA, 2570 Dole Street, room 106, Honolulu, Hawaii 96822-2390.

Dated: November 7, 1989.

Nancy Foster,

Director, Office of Protected Resources and Habitat Programs, National Marine Fisheries Service.

[FR Doc. 89-26761 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-22-M

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Announcement of an Import Restraint Limit for Certain Man-Made Fiber Textile Products Produced or Manufactured in India

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs amending a limit and restraint period.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Jennifer Tallarico, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6494. For information on embargoes and quota re-openings, call (202) 377-3715.

For information on categories on which consultations have been requested, call (202) 377-3740.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A notice published in the **Federal Register** on September 8, 1989 (54 FR 37354) announced the establishment of a limit for man-made fiber trousers, breeches and shorts in Categories 647/648 for the ninety-day consultation period which began on July 31, 1989 and extends through October 28, 1989.

Inasmuch as consultations have not yet been held with the Government of India on a mutually satisfactory solution and the consultation period expires on October 28, 1989, the United States has decided to establish a prorated limit for Categories 647/648 for the period July 31, 1989 through December 31, 1989.

The United States remains committed to finding a solution concerning these categories. Should such a solution be reached in consultations with the Government of India, further notice will be published in the **Federal Register**.

A description of the textile and apparel categories in terms of HTS numbers is available in the **CORRELATION:** Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see **Federal Register** notice 53 FR 44937, published on November 7, 1988). Also

see 54 FR 37354, published on September 8, 1989.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on September 5, 1989 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of man-made fiber textile products in Categories 647/648, produced or manufactured in India and exported during the ninety-day period which began on July 31, 1989 and extends through October 28, 1989.

Effective on November 17, 1989, you are directed to amend the September 5, 1989 directive to extend the restraint period for Categories 647/648 through December 31, 1989 at an increased level of 150,625 dozen.¹

Import charges already made to Categories 647/648 for the ninety-day period shall be retained. Additional charges will be made as data become available.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26825 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Establishment of an Import Limit for Certain Cotton and Man-Made Fiber Textile Products Produced or Manufactured in Macau

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing a limit.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the

¹ The limit has not been adjusted to account for any imports exported after June 30, 1989.

Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6495. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Committee for the Implementation of Textile Agreements has decided to establish a limit for cotton and man-made fiber textile products in Category 239 in Group I.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 51297, published on December 21, 1988.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 16, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool, man-made fiber, silk blend and other vegetable fiber textiles and textile products, produced or manufactured in Macau and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 17, 1989, the directive of December 16, 1988 is amended further to establish a limit of 93,387 kilograms ¹ for cotton and man-made fiber textile products in Category 239. Category 239 shall remain subject to the Group I limit.

Imports already charged to Group I for Category 239 shall be applied to the limit established in this directive.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-28826 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in Malaysia

November 8, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 8, 1989.

FOR FURTHER INFORMATION CONTACT:

Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6496. For information on embargoes and quota reopenings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain categories are being adjusted, variously, for shift and carryover.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49901, published on December 12, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 1989

Commissioner of Customs,
Department of the Treasury, Washington,
D.C. 20229

Dear Commissioner: This directive amends, but does not cancel, the directive of December 8, 1988 issued to you by the Chairman, Committee for the Implementation of Textile Agreements. That directive

concerns imports into the United States of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in Malaysia and exported during the twelve-month period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 8, 1989, the directive of December 8, 1988 is amended to adjust the limits for the following categories, as provided under the terms of the current bilateral textile agreement between the Governments of the United States and Malaysia:

Category	Adjusted 12-month limit ¹
Fabric Group	
218, 219, 220, 225-227, 313-315, 317, 326 and 613/614/615/617, as a group.	60,174,251 square meters.
Group II	
201, 222-224, 229, 239, 330, 332, 349, 350, 352-354, 359-362, 369-O ² , 400-434, 436, 438-O ³ , 439, 440, 443, 444, 447, 448, 459, 464-469, 600-603, 606, 607, 611, 618-622, 624-630, 632, 633, 643, 644, 649, 650, 652-654, 659, 665-670, 831-834, 836, 838, 839, 840, and 843-859, as a group.	27,858,271 square meters equivalent.
Other Specific Limits	
237	235,013 dozen.
333/334/335/835	151,796 dozen of which not more than 70,225 dozen shall be in Category 333, not more than 70,225 dozen shall be in Category 334, not more than 70,225 dozen shall be in Category 335 and not more than 70,225 dozen shall be in Category 835.
336/636	272,687 dozen.
338/339	676,056 dozen.
340/640	817,475 dozen.
341/641	1,132,863 dozen of which not more than 364,098 dozen shall be in Category 341.
342/642/842	258,820 dozen.
345	97,033 dozen.
347/348	271,669 dozen.
351/651	175,955 dozen.
445/446	31,385 dozen.
634/635	528,740 dozen of which not more than 207,666 dozen shall be in Category 635.
638/639	294,632 dozen.
645/646	203,910 dozen.

¹ The limit has not been adjusted to account for any imports exported after December 31, 1988.

Category	Adjusted 12-month limit ¹
647/648.....	1,136,463 dozen of which not more than 782,969 dozen shall be in Category 647-K ² and not more than 782,969 dozen shall be in Category 648-K ³ .

¹ The limits have not been adjusted to account for any imports exported after December 31, 1988.

² In Category 369-O, all HTS numbers except 6307.10.2005 in Category 369-S.

³ In Category 438-O, only HTS numbers 6103.21.0050, 6103.23.0025, 6105.20.1000, 6105.90.1000, 6105.90.3020, 6109.90.1520, 6110.10.2070, 6110.30.1550, 6110.90.0072, 6114.10.0020 and 6117.90.0024.

⁴ In Category 647-K, only HTS numbers 6103.23.0040, 6103.29.1020, 6103.43.1520, 6103.43.1540, 6103.49.1020, 6103.49.3014, 6112.12.0050, 6112.19.1050, 6112.20.1060, 6113.00.0045, 6103.23.0045, 6103.29.1030, 6103.43.1550, 6103.43.1570 and 6103.49.1060.

⁵ In Category 648-K, only HTS numbers 6104.23.0032, 6104.23.0034, 6104.29.1030, 6104.29.1040, 6104.29.2038, 6104.63.2010, 6104.63.2025, 6104.63.2030, 6104.63.2060, 6104.69.2010, 6104.69.2020, 6104.69.3026, 6112.12.0060, 6112.19.1060, 6112.20.1070, 6113.00.0050 and 6117.90.0046.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26827 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Adjustment of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textile Products Produced or Manufactured in the Philippines

November 8, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs adjusting limits.

EFFECTIVE DATE: November 9, 1989.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The current limits for certain levels in Group I are being adjusted, variously, for swing, carryover, carryforward and carryforward used. The adjusted level for Category 634 includes a correction to a previous adjustment (see 54 FR 28831, published on July 10, 1989).

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 49343, published on December 7, 1988.

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 8, 1989

Commissioner of Customs,
Department of the Treasury, Washington,
DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 2, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel, produced or manufactured in the Philippines and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 9, 1989, the directive of December 2, 1988 is being amended to adjust the limits for the following categories, under the terms of the current bilateral textiles agreement between the Governments of the United States and the Philippines:

Category	12-month limit ¹
Levels in Group I	
237.....	613,123 dozen.
239.....	8,484,333 kilograms.
335.....	150,797 dozen.
338/339.....	1,582,029 dozen.
340/640.....	798,941 dozen of which not more than 372,388 dozen shall be in Categories 340-Y/640-Y. ²
347/348.....	1,382,028 dozen.
369-S ³	93,347 kilograms.
445/446.....	29,657 dozen.
604.....	764,468 kilograms.
631.....	2,547,069 dozen pairs.
634.....	272,992 dozen.
635.....	293,428 dozen.

Category	12-month limit ¹
638/639.....	1,146,072 dozen.
643.....	422,359 numbers.
647/648.....	687,646 dozen.
659-H ⁴	721,672 kilograms.

¹ The limits have not been adjusted to account for any imports exported after December 31, 1988.

² In Categories 340-Y/640-Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 in Category 340-Y; and 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640-Y.

³ In Category 369-S, only HTS number 6307.10.2005.

⁴ In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6060, 6505.90.7060 and 6505.90.8060.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26828 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Produced or Manufactured in the Philippines

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreement (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Kim-Bang Pham, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 535-6735. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (U.S.C. 1854).

A copy of the current bilateral agreement between the Governments of the United States and the Philippines is available from the Textiles Division, Bureau of Economic and Business

Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Harmonized Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989.

Commissioner of Customs,
Department of the Treasury, Washington, DC 20229.

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textiles and Textile Products and Silk Blend and Other Vegetable Fiber Apparel Agreement of March 4, 1987, as amended, between the Governments of the United States and the Philippines; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textiles and textile products and silk blend and other vegetable fiber apparel in the following categories, produced or manufactured in the Philippines and exported during the period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following levels of restraint:

Category	12-month restraint limit
Group I	
237	1,191,061 dozen.
239	6,391,091 kilograms.
331	893,262 dozen pairs.
333/334	165,930 dozen of which not more than 23,820 dozen shall be in Category.
335	108,004 dozen.
336	393,035 dozen.
338/339	1,310,118 dozen.

Category	12-month restraint limit
340/640	704,152 dozen of which not more than 387,283 dozen shall be in shirts made with two or more colors in the warp and/or filling in Categories 340-Y/640-Y. ¹
341/641	623,188 dozen.
342/642	327,595 dozen.
345	101,236 dozen.
347/348	1,191,016 dozen.
351/651	357,305 dozen.
352/652	1,429,219 dozen.
369-S ²	513,225 kilograms.
431	156,091 dozen pairs.
433	4,137 dozen.
443	24,409 numbers.
445/446	25,384 dozen.
447	8,121 dozen.
604	1,200,214 kilograms.
631	2,917,989 dozen pairs.
633	21,905 dozen.
634	261,898 dozen.
635	280,063 dozen.
636	1,024,274 dozen.
638/639	1,345,848 dozen.
643	523,216 numbers.
645/646	578,813 dozen.
647/648	718,649 dozen.
649	4,933,062 dozen.
650	61,814 dozen.
659-H ³	648,282 kilograms.
Group II	
200, 201, 218-229, 300-326, 330, 332, 349, 350, 353, 354, 359, 360-363, 369-0, * 400, 410, 414, 432, 434-442, 444, 448, 459, 464-469, 600-603, 606-629, 630, 632, 644, 653, 654, 659-0, * 665-670 and 831-859, as a group.	84,161,154 square meters equivalent.

¹ In Categories 340-Y/640-Y, only HTS numbers 6205.20.2015, 6205.20.2020, 6205.20.2046, 6205.20.2050 and 6205.20.2060 in Category 340-Y; and 6205.30.2010, 6205.30.2020, 6205.30.2050 and 6205.30.2060 in Category 640-Y.

² In Category 369-S, only HTS number 6307.10.2005.

³ In Category 659-H, only HTS numbers 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6080, 6505.90.7060 and 6505.90.8060.

⁴ In Category 369-0, all HTS numbers except 6307.10.2005 in Category 369-S.

⁵ In Category 659-0, all HTS numbers except 6502.00.9030, 6504.00.9015, 6504.00.9060, 6505.90.5060, 6505.90.6080, 6505.90.7060 and 6505.90.8060 in Category 659-H.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The levels set forth above are subject to adjustment in the future according to the provisions of the current bilateral agreement between the Governments of the United States and the Philippines.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 89-26829 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Amendment of an Import Limit for Certain Wool Textile Products Produced or Manufactured in the Socialist Republic of Romania

November 9, 1989

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs increasing a limit.

EFFECTIVE DATE: November 17, 1989.

FOR FURTHER INFORMATION CONTACT: Diana Solkoff, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of this limit, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 566-5810. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

The Governments of the United States and the Socialist Republic of Romania agreed to increase the current limit for Categories 433/434 to conform with the Harmonized System.

A description of the textile and apparel categories in terms of HTS numbers is available in the CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States (see Federal Register notice 53 FR 44937, published on November 7, 1988). Also see 53 FR 50439, published on December 15, 1988.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989.

Commissioner of Customs,

Department of the Treasury, Washington, DC 20229.

Dear Commissioner: This directive amends, but does not cancel, the directive issued to you on December 12, 1988 by the Chairman, Committee for the Implementation of Textile Agreements. That directive concerns imports of certain wool and man-made fiber textile products, produced or manufactured in Romania and exported during the period which began on January 1, 1989 and extends through December 31, 1989.

Effective on November 17, 1989, the directive of December 12, 1988 is being amended to increase to 6,741 dozen¹ the limit for wool textile products in Categories 433/434.

The Committee for the Implementation of Textile Agreements has determined that this action falls within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc 89-26830 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of Import Limits for Certain Cotton, Wool, and Man-Made Fiber Textile Products Produced or Manufactured in Singapore

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Issuing a directive to the Commissioner of Customs establishing limits for the new agreement year.

EFFECTIVE DATE: January 1, 1990.

FOR FURTHER INFORMATION CONTACT: Ross Arnold, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-4212. For information on the quota status of these limits, refer to the Quota Status Reports posted on the bulletin boards of each Customs port or call (202) 343-6580. For information on embargoes and quota re-openings, call (202) 377-3715.

SUPPLEMENTARY INFORMATION:

Authority: Executive Order 11651 of March 3, 1972, as amended; sec. 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854).

A copy of the current bilateral textile agreement between the Governments of the United States and Singapore is available from the Textiles Division, Bureau of Economic and Business Affairs, U.S. Department of State, (202) 647-1998.

A description of the textile and apparel categories in terms of HTS

numbers is available in the **CORRELATION: Textile and Apparel Categories with the Tariff Schedule of the United States** (see Federal Register notice 53 FR 44937, published on November 7, 1988).

The letter to the Commissioner of Customs and the actions taken pursuant to it are not designed to implement all of the provisions of the bilateral agreement, but are designed to assist only in the implementation of certain of its provisions.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

Committee for the Implementation of Textile Agreements

November 9, 1989

Commissioner of Customs,

Department of the Treasury, Washington, D.C. 20229

Dear Commissioner: Under the terms of Section 204 of the Agricultural Act of 1956, as amended (7 U.S.C. 1854), and the Arrangement Regarding International Trade in Textiles done at Geneva on December 20, 1973, as further extended on July 31, 1986; pursuant to the Bilateral Cotton, Wool and Man-Made Fiber Textile Agreement, effected by exchange of notes dated May 31, and June 5, 1986, as amended, between the Governments of the United States and Singapore; and in accordance with the provisions of Executive Order 11651 of March 3, 1972, as amended, you are directed to prohibit, effective on January 1, 1990, entry into the United States for consumption and withdrawal from warehouse for consumption of cotton, wool and man-made fiber textile products in the following categories, produced or manufactured in Singapore and exported during the twelve-month period beginning on January 1, 1990 and extending through December 31, 1990, in excess of the following levels of restraint:

Category	12-Month restraint limit
Levels in Group I	
239.....	362,562 kilograms.
331.....	350,958 dozen pairs.
334.....	57,567 dozen.
335.....	173,163 dozen.
338/339.....	897,930 dozen of which not more than 524,758 dozen shall be Category 338 and not more than 583,465 dozen shall be in Category 339.
340.....	628,417 dozen.
341.....	158,016 dozen.
342.....	97,241 dozen.
347/348.....	810,366 dozen of which not more than 506,479 dozen shall be in Category 347 and not more than 393,928 dozen shall be in Category 348.
435.....	6,325 dozen.
604.....	724,941 kilograms
631.....	364,652 dozen pairs.
634.....	219,782 dozen.

Category	12-Month restraint limit
635.....	224,811 dozen.
638.....	807,221 dozen.
639.....	2,978,894 dozen.
640.....	133,972 dozen.
641.....	218,524 dozen.
645/646.....	123,806 dozen.
647.....	443,456 dozen.
648.....	1,420,107 dozen.
Group II	
200-229, 237, 300/	38,461,859 square meters equivalent.
301, 313-330,	
332, 333/633,	
336, 345, 349,	
350, 351/651,	
352/652, 353/	
354/653/654,	
359-369, 400-	
434, 436, 438,	
439, 440-444,	
445/446, 447, 448	
459-469, 600-	
603, 606, 607,	
611-630, 632,	
636, 642-644,	
649, 650, 659-S, ¹	
659-V, ² 659-O ³	
and 665-670, as a group.	
Sublevels within Group II	
200.....	251,998 kilograms.
201.....	259,196 kilograms.
218.....	1,672,255 square meters.
219.....	1,672,255 square meters.
220.....	1,672,255 square meters.
222.....	169,251 kilograms.
223.....	119,366 kilograms.
224.....	1,672,255 square meters.
225.....	1,672,255 square meters.
226.....	1,672,255 square meters.
227.....	1,672,255 square meters.
229.....	122,532 kilograms.
237.....	197,800 dozen.
300/301.....	197,214 kilograms.
313.....	1,672,255 square meters.
314.....	1,672,255 square meters.
315.....	1,672,255 square meters.
317.....	1,672,255 square meters.
326.....	1,672,255 square meters.
330.....	1,178,471 dozen.
332.....	434,783 dozen pairs.
333/633.....	41,500 dozen.
336.....	70,000 dozen.
345.....	54,348 dozen.
349.....	416,687 dozen.
350.....	39,216 dozen.
351/651.....	38,462 dozen.
352/652.....	148,148 dozen.
353/354/653/654.....	48,426 dozen.
359.....	197,214 kilograms.
360.....	1,818,182 numbers.
361.....	322,581 numbers.
362.....	289,855 numbers.
363.....	4,000,000 numbers.
369.....	197,214 kilograms.
400.....	34,019 kilograms.
410.....	125,419 square meters.
414.....	45,359 kilograms.
431.....	71,429 dozen pairs.
432.....	53,571 dozen pairs.
433.....	4,167 dozen.

¹ The limit has not been adjusted to account for any imports exported after December 31, 1988.

Category	12-Month restraint limit
434.....	6,000 dozen.
436.....	3,049 dozen.
438.....	10,000 dozen.
439.....	20,012 kilograms.
440.....	6,250 dozen.
442.....	10,000 dozen.
443.....	33,336 numbers.
444.....	33,336 numbers.
445/446.....	20,000 dozen.
447.....	8,333 dozen.
448.....	8,333 dozen.
459.....	34,019 kilograms.
464.....	52,338 kilograms.
465.....	139,355 square meters.
469.....	34,019 kilograms.
600.....	259,196 kilograms.
603.....	266,819 kilograms.
606.....	83,228 kilograms.
607.....	259,196 kilograms.
611.....	1,672,255 square meters.
613.....	1,672,255 square meters.
614.....	1,672,255 square meters.
615.....	1,672,255 square meters.
617.....	1,672,255 square meters.
618.....	1,672,255 square meters.
619.....	1,672,255 square meters.
620.....	1,672,255 square meters.
621.....	116,306 kilograms.
622.....	1,672,255 square meters.
624.....	1,672,255 square meters.
625.....	1,672,255 square meters.
626.....	1,672,255 square meters.
627.....	1,672,255 square meters.
628.....	1,672,255 square meters.
629.....	1,672,255 square meters.
630.....	1,176,471 dozen.
632.....	434,783 dozen pairs.
636.....	140,000 dozen.
642.....	197,270 dozen.
643.....	444,444 numbers.
644.....	444,444 numbers.
649.....	416,667 dozen.
650.....	39,216 dozen.
659-S.....	145,150 kilograms.
659-V.....	145,150 kilograms.
659-O.....	145,150 kilograms.
665.....	1,858,061 square meters.
666.....	116,306 kilograms.
669.....	116,306 kilograms.
670.....	453,592 kilograms.

¹ In Category 659-S, only HTS numbers 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020.

² In Category 659-V, only HTS number 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052, 6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0080.

³ In Category 659-O, all HTS numbers except 6112.31.0010, 6112.31.0020, 6112.41.0010, 6112.41.0020, 6112.41.0030, 6112.41.0040, 6211.11.1010, 6211.11.1020, 6211.12.1010 and 6211.12.1020 in Category 659-S; and 6110.30.1030, 6110.30.1040, 6110.30.2030, 6110.30.2040, 6110.30.3030, 6110.30.3035, 6110.90.0052,

6110.90.0054, 6201.93.2020, 6202.93.2020, 6211.33.0050 and 6211.43.0080 in Category 659-V.

Imports charged to these category limits for the period January 1, 1989 through December 31, 1989 shall be charged against the levels of restraint to the extent of any unfilled balances. In the event the limits established for that period have been exhausted by previous entries, such goods shall be subject to the levels set forth in this directive.

The conversion factor for Categories 352/652 is 11.3 square meters equivalent per dozen.

The limits set forth above are subject to adjustment in the future according to the provisions of the bilateral agreement, effected by exchange of notes dated May 31 and June 5, 1986, as amended, between the Governments of the United States and Singapore.

In carrying out the above directions, the Commissioner of Customs should construe entry into the United States for consumption to include entry for consumption into the Commonwealth of Puerto Rico.

The Committee for the Implementation of Textile Agreements has determined that these actions fall within the foreign affairs exception to the rulemaking provisions of 5 U.S.C. 553(a)(1).

Sincerely,

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26831 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

Announcement of the Availability and Requirement of the Special Access/Special Regime Export Declaration (Revised Form ITA-370P)

November 9, 1989.

AGENCY: Committee for the Implementation of Textile Agreements (CITA).

ACTION: Notice.

FOR FURTHER INFORMATION CONTACT:

Lori E. Goldberg, International Trade Specialist, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 377-3400.

SUPPLEMENTARY INFORMATION: The purpose of this notice is to announce that the current CBI Export Declaration "Special Access" (ITA-370P) has been revised to include coverage of the "Special Regime Program." Effective January 1, 1990, the newly revised form must be completed before parts are exported for assembly. The old form may not be used for parts exported on or after January 1, 1990.

Beginning November 9, 1989, orders for the revised Form ITA-370P (Special Access/Special Regime Export Declaration) may be placed with the Superintendent of Documents, Government Printing Office,

Washington DC 20402-9325 (202/783-3238). Refer to stock number 003-009-00567-1. The cost of the form is not yet available.

Goods qualifying for re-entry into the United States under the Special Access and Special Regime Programs which are exported from the United States on the after January 1, 1990 must be accompanied by the newly revised Special Access/Special Regime Export Declaration. The old form may not be used for parts exported on or after January 1, 1990.

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. 89-26833 Filed 11-14-89; 8:45 am]

BILLING CODE 3510-DR-M

DEPARTMENT OF DEFENSE

Office of the Secretary

Public Information Collection Requirement Submitted to OMB for Review

ACTION: Notice

The Department of Defense has submitted to OMB for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Title, Applicable Form, and Applicable OMB Control Number: Health Professions Accessions Forms ATC Forms 1322.1402.1437. OMB Control Number 0701-0078.

Type of Request: Revision of a currently approved collection.

Average Burden Hours/Minutes Per Response: 3 hours.

Frequency of Response: On occasion.

Number of Respondents: 3,552

Annual Burden Hours: 10,656

Annual Responses: 3,552

Needs and Uses: "Personnel recruiting, military personnel, Air Force personnel, military officers." These forms are used by field recruiters in the processing of Health Professions applicants applying for a commission in the Air Force.

Affected Public: Individuals or households.

Frequency: One time only.

Respondent's Obligation: Required to obtain or retain a benefit.

OMB Desk Officer: Dr. J. Timothy Sprehe. Written comments and recommendations on the proposed information collection should be sent to Dr. J. Timothy Sprehe at Office of Management and Budget, Desk Officer,

Room 3235, New Executive Office Building, Washington, DC 20503.

DOD Clearance Officer: Ms. Pearl Rascoe-Harrison. Written request for copies of the information collection proposal should be sent to Ms. Rascoe-Harrison, WHS/DIOR, 1215 Jefferson Davis Highway, Suite 1204, Arlington, Virginia 22202-4302.

Dated: November 8, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 89-26839 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Special Operations Policy Advisory Group; Meeting

The Special Operations Policy Advisory Group (SOPAG) will meet on 27 November 1989 in the Pentagon, Arlington, Virginia to discuss sensitive, classified topics.

The mission of the SOPAG is to advise the Office of the Secretary of Defense on key policy issues related to the development and maintenance of effective Special Operations Forces.

In accordance with section 10(d) of Pub. L. 92-463, the "Federal Advisory Committee Act," and section 552b(c)(1) of title 5, United States Code, this meeting will be closed to the public.

Dated: November 9, 1989.

Linda M. Bynum,

OSD Federal Register Liaison, Department of Defense.

[FR Doc. 89-26840 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Air Force

USAF Scientific Advisory Board; Meeting

November 3, 1989.

The USAF Scientific Advisory Board Division Advisory Group (DAG) for Space Systems Division (AFSC) will meet on 11-13 December 1989 from 7:30 a.m. to 6:00 p.m. at Kirtland AFB, NM.

The purpose of this meeting is to review and discuss the Advanced Spaceborne Computer Module concept. This meeting will involve discussions of classified defense matters listed in section 552b(c) of title 5, United States Code, specifically subparagraph (1) thereof, and accordingly will be closed to the public.

For further information, contact the Scientific Advisory Board Secretariat at (202) 697-8404.

Patsy J. Conner,

Air Force Federal Register Liaison Officer.

[FR Doc. 89-26787 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Privacy Act of 1974; Systems of Records Notices

AGENCY: Department of the Air Force, DOD.

ACTION: Alteration of four and deletion of two systems of records for public comment.

SUMMARY: The Department of the Air Force proposes to alter four and delete two systems of records to its inventory of systems of records subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a). The deletions and record systems notices for the four altered systems are set forth below.

DATES: The deletions will be effective on November 15, 1989. The altered systems will be effective December 15, 1989, unless comments are received which would result in a contrary determination.

ADDRESS: Linda G. Adams, SAF/AADA, The Pentagon, Washington, DC 20330-1000. Telephone (202) 697-3491; Autovon 227-3491.

SUPPLEMENTARY INFORMATION: The Department of the Air Force systems of records notices subject to the Privacy Act of 1974, as amended, (5 U.S.C. 552a), have been published in the Federal Register as follows:

50 FR 22090, May 29, 1985 (Compilation, changes follow)

50 FR 47087, Nov. 14, 1985

51 FR 11807, Apr. 7, 1986

51 FR 11803, Apr. 7, 1986

51 FR 17508, May 13, 1986

51 FR 23573, Jun. 30, 1986

51 FR 44668, Dec. 11, 1986

51 FR 44672, Dec. 11, 1986

51 FR 44670, Dec. 11, 1986

51 FR 44665, Dec. 11, 1986

52 FR 4645, Feb. 13, 1987

52 FR 11849, Apr. 13, 1987

52 FR 23334, Jun. 19, 1987

52 FR 16431, May 5, 1987

52 FR 22837, Jun. 16, 1987

53 FR 15868, May 4, 1988

53 FR 27894, Jul. 25, 1988

54 FR 10034, Mar. 9, 1989

54 FR 43450, Oct. 25, 1989

The proposed deletions are not within the purview of the provisions of 5 U.S.C. 552a(r), which requires the submission of a new or altered system report. The altered systems reports, as required by 5 U.S.C. § 552a(r) of the Privacy Act were submitted on November 3, 1989, to the

Committee on Governmental Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget (OMB) pursuant to paragraph 4b of Appendix I to OMB Circular No. A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985 (50 FR 52730, December 24, 1985). The specific changes to the altered systems of records are set forth below, followed by the system notices, as amended, published in their entirety.

Dated: November 8, 1989.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

Deletions

FO12 ARPC A

System name:

FO12 ARPC A—Fee Case File, (50 FR 22347, May 29, 1985).

Reason: This system is no longer needed. There are no plans to reinstate the system in the future.

FO30 AFSC A

System name:

FO30 AFSC A—AFSC Discrimination, Complaint File (53 FR 24354, June 28, 1988).

Reason: This is not a system of records. All complaints are filed by case number and are not cross-referenced by name/Social Security Number. There are no plans to reinstate the system in the future.

FO30 AF MP A

SYSTEM NAME:

FO30 AF MP A—Personnel Data System (PDS) (51 FR 18927, May 23, 1986).

CHANGES:

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Change all the sub-items of item 8 to alphas. At end of entry, add "(aa) Aviator Continuation Pay: This file is used to identify where the officer is participating in the Continuation Pay Program. Update to this file is provided by HQ AFMPC/DPMAT, the Air Force Accounting and Finance Center, and directly from changes to the Master Personnel File. Identification data on an individual record includes amount of continuation pay, ADSC, and bonus eligibility data.

* * * * *

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

In the first column of page 18932, line 38, delete " * * 8012 * * " and replace with " * * 8013 * * ". At the end of entry, add "and E.O. 9397."

* * *

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or may be obtained from the system manager."

* * *

F030 AF MP A**SYSTEM NAME:**

F030 AF MP A—Personnel Data System (PDS).

SYSTEM LOCATION:

Headquarters United States Air Force, Washington, DC 20330. Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150. Air Reserve Personnel Center, Denver, CO 80280. Headquarters of major commands and separate operating agencies and Consolidated Based Personnel Offices (CBPOs), Central Civilian Personnel Offices (CCPOs), and consolidated reserve personnel offices, and activity or squadron orderly rooms. Official mailing addresses are published as an appendix to the Department of Air Force's compilation of systems or records.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Air Force active duty and retired military personnel. Air Force Reserve and Air National Guard personnel. Air Force Academy cadets. Air Force Civilian employees. Certain surviving dependents of deceased members of the U.S. Air Force and predecessor organizations; potential Air Force enlistees; candidates for commission enrolled in college level Air Force Reserve Officer Training Corps Programs; Deceased members of the Air Force and predecessor organizations; separated members of the U.S. Air Force, the Air National Guard (ANG) and Air Force Reserve (USAFR); ANG and USAFR Technicians; Prospective, pending, current, and former Air Force civilian employees, except Air National Guard Technicians—current and former civilian employees from other Governmental agencies that are serviced at CCPOs may be included at the option of servicing CCPO; DoD

contractors and foreign military personnel on liaison or support duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

The principal digital record maintained at each PDS operating level is the master personnel record, which contains the following categories of information:

1. Accession data pertaining to an individual's entry into the Air Force (place of enlistment, source of commission, home of record, date of enlistment, place from which ordered to EAD).

2. Education and training data, describing the level and type of education and training, civilian or military (academic education level, major academic specialty, professional specialty courses completed, professional military education received).

3. Utilization data used in assigning and reassigning the individual, determining skill qualifications, awarding Air Force Specialty Codes, determining duty location and job assignment, screening/selecting individual for overseas assignment, performing strength accounting processes, etc. (Primary Air Force Specialty Code, Duty and Control Air Force Specialty Code, personnel accounting symbol, duty location, up to 24 previous duty assignments, aeronautical rating, data departed last duty station, short tour return date, reserve section, current/last duty station, short tour return date, reserve section, current/last overseas tour).

4. Evaluation Data on members of the Air Force during their career (Officer Effectiveness Report dates and rating, Airman Performance Report dates and ratings, result of various qualification tests, an "Unfavorable Information" indicator, and Drug and Alcohol Abuse data).

5. Promotion Data including promotion history, current grade and/or selection for promotion (current grade, date of rank and effective date; up to 10 previous grades, dates of rank and effective dates projected temporary grade, key "service dates").

6. Compensation data although PDS does not deal directly with paying Air Force members, military pay is largely predicated on personnel data maintained in PDS and provided to the Air Force Accounting and Finance Center (AFAFC) as described in ROUTINE USES below (pay date, Aviation Service Code, sex, grade, proficiency pay status).

7. Sustentation data—information dealing with programs provided or actions taken to improve the life,

personal growth and morale of Air Force members (awards and decorations, marital status, number of dependents, religious denomination of member and spouse, race relations education).

8. Separation and retirements data, which identifies an individual's eligibility for and the reason for separation (date of separation, mandatory retirement date, projected or actual separation program designator and character of discharge). At the central processing site (AFMPC), other subsidiary files or processes are operated which are integral parts of PDS: (a) Procurement Management Information System (PROMIS) is an automated system designed to enable the USAF to exercise effective management and control of the procurement personnel required to meet the total scheduled manpower requirements necessary to accomplish the Air Force mission. The system provides the recruiter with job requirement data such as necessary test scores, Air Force Specialty Code, sex, date of enlistment; and the recruiter enters personal data on the applicant—SSN, name, date of birth, etc.—to reserve the job for him or her. (b) Career Airman Reenlistment Reservation System (CAREERS) is a selective reenlistment process that manages and controls the numbers by skill of first-term airmen that can enter the career force to meet established objectives for accomplishing the Air Force mission. A centralized data bank contains the actual number, by quarter, for each Air Force Specialty Code (AFSC) that can be allowed to reenlist during that period. The individual requests reenlistment by stating his eligibility (AFSC), grade, active military service time, etc. If a vacancy exists, a reservation—by name, SSN, etc.—will be made and issued to the CBPO processing the reenlistment. (c) Airman Accessions provides the process to capture a new enlistee's initial personal data (entire personnel record) to establish a personal data record and gain it to the Master Personnel File of the Air Force. The initial record data is captured through the established interface with the Processing and Classification Enlistees System (PACE) at Basic Military Training, Lackland Air Force Base, for non-prior service; for prior service enlistees the basic data (name, SSN, DOE, grade, etc.) is input directly by USAF Recruiting Service and updated and completed by the initial gaining CBPO. (d) Officer Accessions is the process whereby each of the various Air Force sources of commissioning (AF Academy, AFROTC, Officer Training

School, etc.) project their graduates in advance allowing management to select by skill, academic specialty, etc.—which and how many will be called to active duty when, by entering into the record an initial assignment and projected entry onto Active Duty date. On that date the individual's record is accessed to the active Master Personnel File of the Air Force. (e) Technical Training Management Information System (TRAMIS) is a system dealing with the Technical Training activities controlled by Air Training Command. The purpose of the system is to integrate the training program, quota control and student accounting into the personnel data system. TRAMIS consists of numerous files which constitute "quota banks" of available training spaces, in specific courses, projected for future use based on estimated training requirements. Files include such data as: Course Identification Numbers, Class Start and Graduation Dates, Length of Training, Weapon System Identification, Training Priority Designators, Responsible Training Centers, Trainee Names, SSN (and other pertinent personnel data) on individuals scheduled to attend classes. (f) Training Pipeline Management Information System (TRAPMIS) is an automated quota allocating system which deals with specialized combat aircrew training and aircrew survival training. Its files constitute a "quota bank" against which training requirements are matched and satisfied and through which trainees are scheduled in "pipeline" fashion to accommodate the individual's scheduled geographical movement from school to school to end assignment. Files contain data concerning the courses monitored as well as names, SSNs and other pertinent personnel data on members being trained. (g) Air Force Institute of Technology (AFIT) Quota Bank File reflects program quotas by academic specialty for each fiscal year (current plus two futures fiscal years, plus the past fiscal year programs for historical purposes). Also, this file reflects the total number of quotas for each academic specialty. Officer assignment transactions process against the AFIT Quota Bank file to reflect the fill of AFIT Quotas. Examples of data maintained are: Academic Specialty, Program Level, Fiscal Year, Name of Incumbent selected, projected, filling AFIT Quota.

(h) Job File is derived from the Authorized Record and is accessible by Position Number. Resource managers can use the Job File to validate authorizations by Position Number for assignment action and also to make job

offers to individual officers. Internal suspension within the Job File occurs based upon Resource Managers update transactions. Data in the file includes: Position Number, Duty AFSC, Functional Account Code, Program Element, Location, and name of incumbent. (i) Casualty subsystem is composed of transactions which may be input at Headquarters Air Force and/or CBPOs to report death or serious illness of members from all components. A special file is maintained in the system to record information on individuals who have died. Basic identification data and unique data such as country of occurrence, date of incident, casualty group, aircraft involved in the incident and military status are recorded and maintained in this file. (j) Awards/Decorations are recorded and maintained on all component personnel in the headquarters Air Force master files. All approved decorations are input at CBPOs whereas disapproved decorations are input at MAJCOM/HAF. A decorations statistical file is built at AFMPC which reflects an aggregation of approvals/disapprovals by category of decoration. This file does not contain any individually identifiable data. All individually identifiable data on decorations is maintained in the Master Personnel File. Such information as the type of decoration, awarding authority, special order number and data of award are identified in an individual's record. Several occurrences for all decorations are stored; however only specific data on the last decoration of a particular type is maintained. (k) Point Credit Accounting and Reporting System (PCARS) is an Air National Guard/Air Force Reserve Unique supported by PDS. Its basic purpose is to maintain and account for retirement/retention points accrued as a result of participating in Drills/Training. The system stores basic personal identification data which is associated with a calendar of points, earned by participation in the Reserve program. Each year an individual's record is closed and point totals are accumulated in history, and a point earning statement is provided the individual and various records custodians. (1) Human Reliability/Personnel Reliability File is maintained at Headquarters Air Force in support of Air Force Regulation 35-99. It is not part of the Master Personnel Files but a free standing file which is updated by transactions from CBPOs. The file was established to specifically identify individuals who have become permanently disqualified under the provisions of the above regulations. A record is maintained on each

disqualified individual which includes basic identification data, service component, Personnel/Human reliability status and date, and reason for disqualification. (m) Variable Incentive Pay (VIP) File for medical officers contains about 125 character records on all Air Force physicians and is specifically used to identify whether the individual is participating in the Continuation Pay or Variable Incentive Pay programs. Update to this file is provided by the Surgeon (AFMPC), the Air Force Accounting and Finance Center and directly from changes to the Master Personnel File. Besides basic identification data an individual's record, includes source of appointment, graduate medical location status, amount of VIP or Continuation Pay and the dates of authorization and the dates and reason for separation. (n) Weighted Airman Promotion System: (1) The Test Scoring and Reporting Subsystem (TSRS) provides for identifying at the CBPO individuals eligible for testing; providing output to the Base Test Control Officer and the CBPO to control, monitor, and operate WAPS testing functions; editing and scoring WAPS test answer cards at AFMPC; providing output for maintaining historical and analytical files at AFMPC and the Human Resources Laboratory (HRL) and includes the central identification of AFMPC of individuals eligible for testing. (2) The Personnel Data Reporting Subsystem (PDRS) provides for identifying promotion eligibles at AFMPC; verifying these eligibles and selected promotion data; merging test and weighted promotion data at AFMPC to effect promotion scoring, assigning the promotion objective and aligning selectees in promotion priority sequence; maintaining projections on promotion selectees at AFMPC, MAJCOM, and the CBPO, updating these projections monthly; creating output products to monitor the flow of data in the system; maintaining promotion historical and analytical files and reports at AFMPC. (3) Basically, identification data along with time in grade, test scores, decoration information, time in service, and airman performance report history is used to support this program. (o) Retired Personnel Data System (RPDS) is made up of four files—Retired Officer Management File and Retired Airman Management File containing records on members in retired status and the Retired Officer and Airman Loss Files containing records on former retirees who have been lost from rolls, usually through death. The RPDS is used to produce address listings for the Retired

Newsletter and Policy letter, statistical reports for budgeting, to manage the Advancement Program, the Temporary Disability Retired List, Age 59 rosters for ARPC, General Officer roster, and statistical digest data for management analysis functions. Data is extracted from the master files upon retirement from Active Duty or Reserves. Data includes: Name, SSN, grade data, service data, education data, retirement data and address. (p) Separated Officer File contains historical information on officers who leave the Air Force via separation, retirement, or death. Copies are sent to Human Resources Lab and Washington offices for research purposes. The data comprises the Master Personnel Record in its entirety and is captured 30 to 60 days after separation from the Air Force. (q) Airman Gain/Loss File includes data extracted from the Airman Master file when accession and separation (gains and losses) occur. This file, like the Separated Officer File, is used for historical reports regarding strength changes. Data includes name, SSN, and other data that reflects strength, i.e., promotions, reassignment data, specialty codes, etc. (r) Officer and Airman Separation Subsystem is used to process, track, approve, disapprove and project separations from the Air Force and transfers between components of the Air Force. This subsystem uses the Active, Guard, and Reserve MPFs. Data includes that specifically related to separations, e.g., Date of Separation, Separation Program Designator, waivers, etc. (s) The Retirements Subsystem is used to process and track applications for and approval/disapproval and projections of retirements. This subsystem uses the Master Files for Active Duty and Reserve officers and airmen. Data specifically related to retirements includes application data, date of separation, waiver codes, disapproval reason codes, Separation Program Designator, Title 10 U.S.C. section, etc. (t) Retired Orders Log is a computer produced retirement orders routine. Orders are automatically produced when approval, verification of service dates, and physical clearance have been entered in system. The orders log contains data found in administrative orders for retirement, including name, SSN, grade, order number, effective dates, etc. The log is used to control assignment of order number, and as a cross-reference between orders, revocations and amendments. (u) General Officer Subsystem of PDS contains data extracted from the Master Personnel File and language

qualification data and assignment history data maintained by the Assistant for General Office Matters. A record is maintained on each general officer and general officer selectee. The general office files are updated monthly and are used to produce products used in the selection/identification of general officers for applicable assignments. (v) Officer Structure Simulation Model (OSSM) provides officer force descriptions in various formats for existing, predictive or manipulated structures. It functions as a planning tool against which policy options can be applied so as to determine the impact of such policy decisions. The (OSSM) input records contain individual identification data from the Master Personnel Record, but all output is statistical. (w) Widow's File is maintained on magnetic tape and updated by the office of primary responsibility. When required, address labels and listings are produced by employing selected PDS utility programs. The address labels are used to forward the Retired Newsletter to widows of active duty and retired personnel. The listings are used for management control of the program. Contained in the file are the name, address, and SSN of the widow. Additionally, the deceased sponsor's name, SSN, date of death, and status at time of death are maintained. (x) Historical Files are files with a retention period of 365 days or more. They consist of copies of acting master files, and are used primarily for aggregation and analysis of statistical data, although individual records may be accessed to meet ad hoc requirements. (y) Miscellaneous files, records, and processes are a number of work files, inactive files with a less-than-365 day retention period, intermediate records, and processes relating to statistical compilations, computer operation, quality control and problem diagnosis. Although they may contain individual-identifying data, they do so only as a function of system operation, and are not used in making decisions about people. (z) Civilian employment information including authorization for position, personnel data, suspense information; position control information; projected information and historical information; civilian education and training data; performance appraisal, ratings, evaluations of potential; civilian historical files covering job experience, training and transactions; civilian awards information, merit promotion plan work files; career programs files for such functional areas as procurement, logistics, civilian personnel, etc., civilian

separation and retirement data for reports and to determine eligibility; adverse and disciplinary data for statistical analysis and employee assistance; stand-alone files, as for complaints, enrollee programs; extract files from which to produce statistical reports in hard copy, or for immediate access display on remote computer terminals; miscellaneous files, as described in item (y) above. (aa) Aviator Continuation Pay is used to identify where the officer is participating in the Continuation Pay Program. Update to this file is provided by HQ AFMPC/DPMAT, the Air Force Accounting and Finance Center, and directly from changes to the Master Personnel File. Identification data on an individual record includes amount of continuation pay, ADSC, and bonus eligibility date.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 265, policies and regulations: Participation of reserve officers in preparation and administration; 269, Ready reserve: Placement in; transfer from; 275, Personnel records; 278, Dissemination of information; 279, Training Reports; Chapter 31, Enlistments; 564, Warrant officers: Effect of second failure of promotion; 593, Commissioned Officers: Appointment, how made; term; 651, Members: Required service; 671, Members not to be assigned outside U.S. before completing training; 673, Ready reserve; Chapter 47, Uniform Code of Military Justice, Sections 835, Art. 35, Service of Charges; 837, Art. 37, Unlawfully influencing action of court; 885, Art. 85, Desertion; 886, Art. 86, Absence without leave; 887, Art. 87, Missing movement; 972, Enlisted members: Required to make up time lost; 1005, Commissioned officers: Retention until completion of required service; 1163, Reserve components: Members; limitations on separation; 1164, Warrant officers; separation for age; 1166, Regular warrant officers: elimination for unfitness or unsatisfactory performance; Chapter 61, Retirement—Physical disability; Chapter 63, Retirement for Age, Sect 1263—Age 62: Warrant officers; Chapter 65, Retirement for Length of Service; 1293, Twenty years or more: Warrant officers; 1305, Thirty years or more: Regular warrant officers; Chapter 67, Retired pay; 1331, Computation of years of service in determining entitlement to retired pay; 1332, Age and service requirements; 1333, Computation of years of service in computing retired pay; Chapter 79, Correction of Military Records; Chapter 165, Accountability and responsibility,

Section 2771, Final settlement of accounts: Deceased members; 8013, Secretary of the Air Force: Powers and duties; delegation by; Chapter 805, The Air Staff, Sections 8032, General duties; and Section 8033, Reserve components of Air Force; policies and regulations for government of: Functions of National Guard Bureau with respect to Air National Guard; Chapter 831, Strength, Section 8224, Air National Guard of the United States; Chapter 833, Enlistments; 835, Appointments in the Regular Air Force, 8284, Commissioned officers; Appointment, how made; 8285, Commissioned officers: Original appointment; qualifications; 8296, Promotion lists: Promotion-list officer defined; determination of place upon transfer or promotion; 8297, Selection boards; 8303, commissioned officers; Effect of failure of promotion to captain, major, or lieutenant colonel; Chapter 837, Appointments as Reserved Officers; 8360, Commissioned officers; Promotion service; 8362, Commissioned officers; Selection boards; 8363, Commissioned officer; Selection boards; general procedures; 8366, Commissioned Officers: Promotion to captain, major, or lieutenant colonel; 8376, Commissioned officers; Promotion when serving in temporary grade higher than reserve grade; Chapter 839, Temporary Appointments, 8442, Commissioned officers; regular and reserve components: Appointment in higher grade; 8447, Appointments in commissioned grade: How made; how terminated; Chapter 841, Active Duty, 8498, Air National Guard of United States: Commissioned officers duty in National Guard Bureau; Chapter 853, Rights and benefits, Section 8691, Flying officer rating: qualifications; Chapter 857, Decorations and Awards; Chapter 859, Separation, 8786, Officer considered for removal: Voluntary retirement or honorable discharge; severance benefits; 8796, Officers considered for removal: Retirement or discharge; Separation or Transfer to Retired Reserve, 8846, Deferred Officers; 8848, 28 years: Reserve first lieutenants, captains, majors, and lieutenant colonels; 8851, Thirty years or five years in grade: Reserve colonels and brigadier generals; 8852, Thirty-five years or five years in grade: Reserve major generals; 8853, Computation of years of service; Chapter 865, Retirement for Age; 8883, Age 60; regular commissioned officers below major general; 8884, Age 60: Regular major generals whose retirement has been deferred; 8885, Age 62: Regular major generals; 8886, Regular major generals whose retirement has been deferred; Chapter 867, Retirement

for Length of Service; 8911, Twenty years or more; regular or reserve commissioned officers; 8913, Twenty years or more: Deferred officers not recommended for promotion; 8914, Twenty to thirty years: Regular enlisted members; 8915, Twenty-five years: Female majors except those designated under section 8067(a)-(d) or (g)-(i) of this title; 8916, twenty-eight years: Promotion list lieutenant colonels; 8918, Thirty years or more: Regular enlisted members; 8917, thirty years or more: Regular commissioned officers; 8921, Thirty years or five years in grade: Promotion-list colonels; 8922, Thirty years or five years in grade: Regular brigadier generals; 8923, Thirty-five years or five years in grade: Regular major generals; 8924, Forty years or more: Air Force Officers; Chapter 901, Training generally, 9301, Members of Air Force: Detail as students, observers and investigators at education institutions, industrial plants, and hospitals; and 9302, Enlisted members of Air Force: Schools; Chapter 903, United States Air Force Academy; 9342, Cadet: Appointment; numbers, territorial distribution; 9344, Selection of persons from Canada and American Republics; 9345, Selection of Filipinos; Chapter 1, Organizations, 102, General policy; and 104, units; Location; organization; command; Chapter 3, Personnel, 307, Federal recognition of officers; Examination, certification of eligibility; Chapter 7, Services, supplies, etc., 709, Caretakers and clerks; Chapter 3, Basic Pay, 308, Special pay: Reenlistment bonus; 313, Special pay: Medical officers who execute active duty agreements; Chapter 7, Allowances, 407, Travel and transportation allowances: Dislocation allowance; Chapter 10; Air Force Manual 30-3, Vol I-V, Mechanized Personnel Procedures, Air Force Manual 30-3, Vol 1-V, Mechanized Personnel Procedures, Air Force Manual 30-130, Base Level Military Personnel System, and Air Force Manual 300-4, Standard Data Elements and Codes; and Executive Order 9397.

PURPOSE(S):

The Air Force operates a centralized personnel management system in an environment that is widely dispersed geographically and encompasses a population that is diverse in terms of qualifications, experience, military status and needs. There are three major centers of Air Force personnel management: Washington, DC, where most major policy and long-range planning/programming decision are made; the Air Force Manpower and Personnel Center at Randolph Air Force Base, TX, which performs most

personnel operations-type functions for the active duty components of the force; and the Air Reserve Personnel Center at Denver, CO, which performs certain operational functions for the Reserve components of the force. Offices at Major Command Headquarters, State Adjutant Generals, and Air Force bases perform operational tasks pertaining to the population for which they are responsible. The structure of the Air Force and its personnel management system, the composition of the force, and the Air Force's stated objective of treating people as individuals, i.e., giving due consideration to their desires, needs and goals, demand a dynamic data system that is capable of supporting the varying needs of the personnel managers at each echelon and operating locations. It is to this purpose that the data in the Personnel Data System is collected, maintained, and used. A. Uses within the Air Force personnel community, HQ USAF, Washington, DC: Deputy Chief of Staff, Personnel and his immediate staff; Director of Personnel Plans; Director of Personnel Programs; Assistant for General Officer Matters; Assistant for Colonel Assignments; Reserve Personnel Division; Air National Guard Personnel Division; and the Surgeon General, the Chief of AF Chaplains and the Staff Judge Advocate, each of which perform certain personnel functions within their area of responsibility. Data from the central data base at the AFMPC is furnished Washington area agencies by retrieval from the computer at Randolph via remote access devices and by provisions of recurring products containing required management information, including computer tape files which are used as input to unique systems with which PDS interfaces. Although most of the data is used by policy makers to develop long-term plans and programs and track progress toward established goals, some individual data is provided/retrieved to support actions taken on certain categories of persons managed by offices in the headquarters, e.g. General Officers, Colonels, Air National Guard personnel, etc. Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX. Personnel managers at AFMPC use the data in PDS to make decisions on individual actions to be taken in areas such as personnel procurement, education and training, classification, assignment, career development, evaluation, promotion, compensation, casualty and personal affairs, separation and retirement. Air Reserve Personnel Center (ARPC), Denver, CO. Personnel managers at ARPC perform

many of the same functions for the Reserve components of the Air Force as the managers at AFMPC perform for the active duty force. As with the Washington area, ARPC obtains data from the central data base at AFMPC by retrieval through remote terminals and recurring output products containing information necessary to their management processes. Major Command Headquarters personnel operations are supported by the standard content of PDS records provided them by AFMPC. In addition, there is provided in the PDS record an "add-on area" which the commands are authorized to use for the storage of data which will assist them in fulfilling unique personnel management requirements generated by their mission, structure, geographical location, etc. The standard functions performed fall generally under the same classifications as those in AFMPC, e.g., assignment, classification, separation, etc. Nonstandard usages include provisions of unique aircrew data, production of speciality-tailored name listing, control of theatre oriented training, etc. Some commands use PDS data—both standard and add-on as input to unique command systems, which are separately described in the Federal Register. Consolidated Base Personnel Offices (CBPO) which represent the base-level aspect for PDS, are the prime point of system-to-people interface. Supplied with a standard data base and system, CBPOs provide personnel management support to commanders and supervisors on a daily basis. Acting on receipt of data from higher headquarters, primarily by means of transactions processed through PDS, they notify people of selection for reassignment, promotion, approval/disapproval of requests for separation and retirement, and similar personnel actions. When certain events occur to an individual at the local level, e.g., volunteer for overseas duty, reduction in grade, change in marital status, application for retirement, etc., the CBPO enters transactions into the vertical system to transmit the requisite information to other management levels and update the automated records resident at those levels. CBPOs too are allotted an "add-on" area in the computer record which they use to support local management unique requirements such as local training scheduling, unique locator listing, urinalysis testing scheduling, etc.

B. Uses External to the Air Force Personnel Community: 1. Headquarters USAF/AFMPC Interfaces:

Automated interfaces exist between the PDS central site files and the

following systems of other functions: a. The Flight Records Data System (FRDS) maintained by the Air Force Inspection and Safety Center (AFISC) at Norton Air Force Base, CA. (1) Certain personnel identification data on rated officers is transferred monthly to the FRDS. This data flow creates the basic identifying data in the FRDS, insures compatibility with the PDS, and precludes duplicative data collection and input generation by the AFISC. (2) Update of the personnel data to the FRDS generates return flow of flying hour data which is used at AFMPC for rated resource distribution management. b. The Master Military Pay Account (MMPA), is the Joint Uniform Military Pay System (JUMPS) centralized pay file maintained by the Air Force Accounting and Finance Center (AFAFC) at Denver, CO. The PDS transfers certain pay related data as changes occur to update the MMPA, e.g., promotions, accessions, separations/retirements, name, SSN, grade. These data provided criteria for the AFAFC to determine specific pay entitlements. c. The AFAFC maintains a separate pay system for Air National Guard and Air Force Reserve personnel called the Air Reserve Pay and Allowances System (ARPAS). (1) PDS outputs certain pay related data to ARPAS as changes occur, e.g., retirements/separations, promotions, name, SSN, grade. These data form the criteria for the AFAFC to determine specific Reserve pay entitlements. (2) ARPAS outputs data which affect accumulated point credits for Air National Guard/Reserve participation to AFMPC for update of the Point Credit Accounting and Reporting System (PCARS), a component of PDS. PCARS also receives monthly input from HQ Air University which updates point credits as a result of completing an extension Courses Institute correspondence program. d. AFAFC procures data on Variable Incentive Pay (VIP) for Medical Officers is used to update a special control file within PDS and produce necessary reports for management of the VIP program. e. Air Training Command operates a system called PACE (Processing and Classification of Enlistees) at Lackland Air Force Base, TX. From the system data is fed to AFMPC to initially established the PDS record on an Air Force enlistee. f. On a monthly basis, copies of the PDS master Personnel File are provided to the Human Resources Laboratory at Brooks Air Force Base, TX, where they are used as a statistical data base for research purposes. g. On a quarterly basis, AFMPC provides the USAF School of Aerospace Medicine with data

concerning name, SSN, and changes in base and command of assignment of flying personnel. The data reflects significant medical problems in the flying population. h. A complete printout of PDS data pertaining to an individual is included in his Master Personnel Record when it is forwarded to National Personnel Records Center. i. PDS data is provided to the Congingency Planning Support Capability (CPSC) at six major command headquarters: Tactical Air Command, Strategic Air Command, Military Airlift Command, Air Force Communications Command, United States Air Forces, Europe, and Pacific Air Forces. A record identifiable by individual's name and SSN provides contingency and/or manning assistance temporary duty (TDY) being performed by the individual. Record is destroyed upon completion of the TDY. Statistical records (gross statistics by skill and unit) are also generated for CPSC from PDS providing force availability estimates. CPSC is described separately in the Federal Register.

2. Base Level CBPO Interfaces: Certain interfaces have been established at base level to pass data from one functional system to another. The particular mode of interface depends on the needs of the receiving function and the capabilities of the system to produce the necessary data: a. The Flight Management Data System (FMDS) receives an automated flow of selected personal data on flying personnel as changes occur. This data consists primarily of assignment data and service dates which the base flight manager uses to determine appropriate category of aviation duty which is reflected by designation of an Aviation Service Code. The FMDS outputs aviation service data as changes occur to the BLMPs. These data subsequently flow to the PDS central site files at AFMPC so it is available for resource management decisions. b. The Medical Administration Management System (MAMS), currently being developed and tested, will receive flow of selected assignment data as changes occur for personnel assigned to medical activities. MAMS will use these data to align assigned personnel with various cost accounting work centers within the medical activity and thus be able to track manpower expenditure by subactivities. c. The Automated Vehicle Operator Record (AVOR) is being developed to support motor vehicle operator management. Approximately 115 characters of vehicle operator data will be incorporated into the BLMPs data base during FY76 for both military and civilian personnel authorized to

operate government motor vehicles and selected personnel data items (basic identification data) will be authorized for access by the vehicle operator managers. d. Monthly, a magnetic tape is extracted from BLMPs containing selected assignment data on all assigned personnel. This tape is transferred to the basic Accounting and Finance Office for input into the Accounting Operations System. This system uses these data to derive aggregate base manpower cost data. e. A procedure is designed into BLMPs to output selected background data in pre-defined printed format for personnel being administered military justice. This output is initiated upon notification by the base legal office. The data is forwarded to the major command where it is input into the Automated Military Justice Analysis and Management System (AMJAMS). f. The BLMPs output (on an event-oriented basis) pay-affecting transactions such as certain promotions, accessions, and assignments/reassignments, to AFAFC, where the data is entered into the JUMPS. C. Uses External to the Air Force, the Office of the Secretary of Defense (OSD): 1. Individual information is provided to offices in OSD on a recurring basis to support top-level management requirements within the Department of Defense. Examples are the DoD Recruiter File to the Assistant Secretary for Manpower and Reserve Affairs (M&RA), a magnetic tape extract of military personnel record (RCS: DD-M (SA) 1221) to M&RA, input to the Reserve Component Common Personnel Data System to M&RA and the Post Career Data File to M&RA. 2. To Other Defense Agencies: PDS supports other components of DoD by provision of individual data in support of programs operated by those agencies. Examples are the Selected Officer List to Defense Intelligence Agency for use in monitoring a classified training program and the Defense System Management School (DSMS) Track Record System to DSMS for use in evaluating the performance of graduates of that institution. An Extract file on Air National Guard Technicians is provided the National Guard Computer Center. 3. Other Government/Quasi-Government Agencies: Information used in analyzing officer/airman retention is provided RAND Corporation. Data on prior service personnel with military service obligations is forwarded to the National Security Agency. Lists of officers selected for promotion and/or appointment in the Regular Air Force are sent to the Office of the President and/or appointment in the Regular Air Force are sent to the Office of the

President and/or the Congress of the United States for review and confirmation. Certain other personnel information is provided these and other government agencies upon request when such data is required in the performance of official duties. Selected personnel data is provided foreign governments, U.S. governmental agencies, and other Uniformed Services on USAF personnel assigned or attached to them for duty. Examples: the government of Canada, Federal Aviation Administration, U.S. Army, Navy, etc. 4. Litigation 5. Miscellaneous. Lists of individuals selected for promotion or appointment, who are being reassigned, who die, or who are retiring are provided to unofficial publications such as the Air Force Times, along with other information of interest to the general Air Force public. Information from PDS support a world-wide locator system which responds to queries as to the location of individuals in the Air Force. Locator information pertinent to personnel on active duty may be furnished to a recognized welfare agency such as the American Red Cross or the Air Force Aid Society. For civilian personnel—to provide automated system support to Air Force officials at all levels from that part of the Office of Personnel Management required personnel management and records keeping system that pertains to evaluation, authorization and position control, position management, staffing skills inventory, career management, training, retirement, employee services, rights and benefits, merit promotion, demotions, reductions in force, complaints resolution, labor management relations, and the suspensions and processing of personnel actions; to provide for transmission of such records between employing activities within the Department of Defense—to provide individual records and reports to OPM; to provide information required by OPM for the transfer between federal activities; to provide reports of military reserve status to other armed services for contingency planning—to obtain statistical data on the work force to fulfill internal and external report requirements and to provide Air Force offices with information needed to plan for and evaluate manpower, budget and civilian personnel programs—to provide minority group designator codes to the Office of Personnel Management's automated data file—to provide the Office of the Assistant Secretary of Defense Manpower and Reserve Affairs with data to access the effectiveness of the program for employment of women in executive level positions—to obtain

listings of employees by function or area for locator and inventory purposes by Air Force offices—to assess the effect or probable impact of personnel program changes by simulation and modeling exercises—to obtain employee duty locations and other employee data for personnel program management purposes—to obtain employee duty locations and other information releasable under OPM rules and the Freedom of Information Act to respond to request from Air Force offices, other Federal agencies and the public—to provide individual records to other components of the Department of Defense in the conduct of their official personnel management program responsibilities—to provide records to OPM for files reconciliation and maintenance purposes—and to provide information to employee unions as required by negotiated contracts.

Routine uses of records maintained in the system, including categories of users and the purposes of such uses:

The "Blanket Routines Uses" that appear at the beginning of the Department of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Maintained in visible file binders/cabinets, card files, on computer magnetic tapes, disks or computer paper printouts or microfiche.

RETRIEVABILITY:

Filed by name or Social Security Number (SSN). The primary individual record identifier in PDS is SSN. Some files are sequenced and retrieved by other identifiers; for instance, the assignment action record is identified by an assignment action number. Additionally, at each echelon there exists computer programs to permit extraction of data from the system by constructing an inquiry containing parameters against which to match and select records. As an example, an inquiry can be written to select all Captains who are F-15 pilots, married, stationed at Randolph AFB, who possess a master's degree in Business Administration; then display name, SSN, number of dependents and duty location. This is the added capability of selecting an individual's record or certain pre-formatted information by SSN on an immediate basis using a teletype or cathode ray tube display device. High-speed line printers located

in the Washington, DC, area, at Major Command and at ARPC permit the transfer of volume products to and for the use of personnel managers at those locations.

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in the performance of their official duties where authorized, and properly screened and cleared for need-to-know, and by commanders of medical centers and hospitals. Records are stored in security file containers/cabinets, safes, vaults and locked cabinets, or rooms. Records are protected by guards. Records are controlled by personnel screening visitor registers and computer system software.

RETENTION AND DISPOSAL:

Retained in office files until superseded, obsolete, no longer needed for reference, or on inactivation, then destroyed by tearing into pieces, shredding, pulping, macerating, or burning. Preceding retention statement applies to Analog output products of the Personnel Data System. Data stored digitally within system is retained only for the period required to satisfy recurring processing requirements and/or historical requirements. Files with a retention period of 364 days or less are automatically released at the end of their specified retention period. "Permanent history" files are retained for 10 years. Files 365 or more days old are defined as "historical files" and are not automatically released. Retention periods for categories of PDS files are as follows: If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, then the retention will be not greater than 10 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next daily, which is also used for processing of weekly runs, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is daily, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is

weekly, and the created magnetic tape file will be used for processing of next weekly, then the retention will be not greater than 20 days. If cycle in which a program or series of programs creating output is weekly, and the created magnetic tape file will be used for processing of next weekly, which is also used for processing of monthly runs, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, then the retention will be not greater than 30 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of quarterly runs, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is monthly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is monthly, and the created magnetic tape file will be used for processing of next monthly, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, then the retention will be not greater than 90 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of semi-annual run, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is quarterly, and the created magnetic tape file will be used for processing of next quarterly, which is also used for processing of permanent history, then the retention will be not

greater than 999 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, then the retention will be not greater than 190 days. If cycle in which a program or series of programs creating output is semi-annual, and the created magnetic tape file will be used for processing of next semi-annual, which is also used for processing of annual runs, then the retention will be not greater than 365 days. If created magnetic tape file will be used for processing of permanent history, then the retention will be not greater than 999 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, then the retention will be not greater than 365 days. If cycle in which a program or series of programs creating output is annual, and the created magnetic tape file will be used for processing of next annual, which is also used for processing of permanent history, then the retention will be not greater than 999 days. If the program or series of programs creating output is a one time run, and the file will be used for processing as required, then the retention will be lowest possible retention commensurate to job completion. If the program or series of programs creating output is compile card image or SOLT tapes, and the created magnetic tape file will be used for processing as required run, then the retention will be not greater than 90 days maximum. If cycle in which a program or series of programs creating output is as required runs, and the created magnetic tape file will be used for processing as required, the retention will be lowest possible commensurate to job completion. If the program or series of programs creating output is test files, and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 30 days. If the program or series of programs creating output is print/punch backup and the created magnetic tape file will be used for processing as required, then the retention will be not greater than 10 days. In addition, for civilian personnel at base level (CCPO), master personnel files for prospective employees are transferred to the action file upon appointment of the employee or in the event the employee is not appointed and will no longer be considered a candidate for appointment, are destroyed by degaussing-master personnel files for active employees are transferred to the separated employee

history file where they are retained for three years subsequent to separation and then destroyed by degaussing. The notification of personnel action—Standard Form 50—is disposed of as directed by OPM—work files are records such as the employee career brief, position survey work sheet, retention register work sheet, alphabetic and Social Security Number locator files, and personnel and position control register are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning—work sheets pertaining to qualification and retention registers are disposed of as directed by OPM—transitory files such as pending files, and recovery files are destroyed after use by degaussing—files and records retrieved through general retrieval systems are destroyed after use by tearing into pieces, shredding, pulping, macerating, or burning. Those records at AF Manpower and Personnel Center for the end of each fiscal year quarter are retained for five years before destroying by deletion—the separated employee file retains employee information at time of separation for five years after which the employee's record is destroyed by degaussing.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff/Manpower and Personnel, Headquarters United States Air Force. Subordinate System Managers are: a. Director of Personnel Data Systems, Assistant Deputy Chief of Staff for Personnel for Military Personnel, Air Force Manpower and Personnel Center (AFMPC), Randolph Air Force Base, TX 78150. He/she is responsible for overall PDS design, maintenance and operation, and is designated the Automated Data Processing System Manager for all Air Force personnel data system. b. The Director of Personnel Data Systems at each Major Command headquarters for systems operated at that level. c. The Chief, CBPO, at Air Force installations for systems operated at that level. d. The Civilian Personnel Officer at Air Force installations for civilian systems operated at that level. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

NOTIFICATION PROCEDURES:

Individuals seeking to determine whether information about themselves is contained in this system of records should address written inquiries to the system manager of the operating level with which they are concerned. Official mailing addresses are published as an appendix to the Air Force's compilation

of systems of records. Persons submitting such a request, either personally or in writing, must provide SSN, name, and military status (active, ANG/USAFR, retired, etc.) ANG members not on extended active duty may submit such requests to the appropriate State Adjutant General or the Chief of the servicing ANG CBPO. USAFR personnel not on extended active duty may submit such requests to ARPC, Denver, CO 80280, or, if unit assigned, to the Chief of the serving CBPO or Consolidated Reserve Personnel Office.

Personal visits to obtain notification may be made to the Military Records Review Room, Air Force Manpower and Personnel Center, Randolph Air Force Base, TX 78150; The Military Records Room, Air Reserve Personnel Center, Denver, CO 80280; The Office of the Director, National Personnel Records Center (NPRC), 111 Winnebago St., St. Louis, MO 63118; the Office of the Director of Personnel Data Systems at the appropriate major command headquarters; or the office of the Chief of his servicing CBPO. Identification will be based on presentation of DD Form 2AF, Military Identification Card. Air Force civilian employees must provide SSN, full name, previous names, if any, last due and location of Air Force civilian employment, if not currently employed by the Air Force—current employees should submit such requests to the CCPO—former employees of the Air Force should submit such requests to the CCPO for the last Air Force installation at which they were employed. Authorizations for a person other than the data subject to have access to an individual's records must be based on a notarized statement signed by the data subject.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the system manager of the operating level with which they are concerned. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from educational institutions, medical institutions, automated system interfaces, police and investigating officers, the bureau of motor vehicles, a state or local government and source documents such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

SYSTEM NAME:

Status of Ineffective Recruiter (51 FR 44332, December 9, 1986)

CHANGES:

* * *

SYSTEM LOCATION:

In lines 2 through 4, delete " * * * 78150. Official mailing * * * systems notices" and replace with " * * * 78150-5001 and HQ United States Air Force Recruiting Service (USAFRS), Randolph Air Force Base, TX 78150-5421."

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line one, insert " * * * and officer * * *" after " * * * ATC enlisted * * *"

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

At the end of entry, delete " * * * (Recruiting Service)."

PURPOSE(S):

Delete current entry and replace with "DCS/P and USAFRS use data to monitor relief actions."

SYSTEM MANAGER(S) AND ADDRESS:

Change ZIP Code at end of entry to " * * * 78150-5001."

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or may be obtained from the system manager."

F035 ATC I

SYSTEM NAME:

Status of Ineffective Recruiter.

SYSTEM LOCATION:

Headquarters Air Training Command (ATC) Deputy Chief of Staff for Personnel (DCS/P), Randolph Air Force Base, TX 78150-5001 and Headquarters United States Air Force Recruiting Service (USAFRS), Randolph Air Force Base, TX 78150-5421.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Active duty ATC enlisted and officer recruiter personnel relieved from duty.

CATEGORIES OF RECORDS IN THE SYSTEM:

Individual military record containing active case data.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 503, Enlistments: Recruiting campaigns, and Air Training Command Regulation 33-2, "Recruiting Procedures for the United States Air Force."

PURPOSE(S):

DCS/P and USAFRS use data to monitor relief actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Maintained in file folders.

RETRIEVABILITY:

Filed by name.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked building.

RETENTION AND DISPOSAL:

Retained in office files for one year after annual cutoff, then destroyed.

SYSTEM MANAGER(S) AND ADDRESS:

Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150-5001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Deputy Chief of Staff for Personnel, Randolph Air Force Base, TX 78150-5001.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Deputy Chief of

Staff for Personnel, Randolph Air Force Base, TX 78150-5001.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information is obtained from source documents, such as reports.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F035 MPC E**SYSTEM NAME:**

Disability/Non-disability Retirements Records (51 FR 44332, December 9, 1986).

CHANGES:

* * * *

SYSTEM LOCATION:

Replace entire entry with "Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001."

* * * *

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 3, insert "* * * microcomputer case files * * *," after "* * * routine correspondence files, case files, * * *."

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

At the end of the entry, add "and E.O. 9397."

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM:**STORAGE:**

Replace current entry with "Maintained in visible file binders/cabinets and microcomputers."

* * * *

SAFEGUARDS:

At the end of entry, add "computer records are controlled by computer system software."

* * * *

RETENTION AND DISPOSAL:

In lines 1 and 2, delete "* * * two years after end of year * * *," and replace with "* * * one year after end of calendar * * *." In line 3, after "* * * case is finalized: * * *," insert "* * * microcomputer case files are maintained in a retired file indefinitely: * * *." In lines 5 and 6, delete "* * * TDRL punch * * * into computer system," and replace with "* * * TDRL

correspondence files are destroyed when member is entered into the HQ Air Force computer system."

SYSTEM MANAGER(S) AND ADDRESS:

Replace current entry with "Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150-6001."

* * * *

CONTESTING RECORD PROCEDURE:

Delete entire entry and replace with "The Department of the Air Force rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or may be obtained from the system manager."

* * * *

F035 MPC E**SYSTEM NAME:**

Disability/Non-disability Retirements Records.

SYSTEM LOCATION:

Air Force Military Personnel Center, Randolph Air Force Base, TX 78150-6001.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, microcomputer case files, disability retain folders, and Temporary Disability Retirement List (TDRL) data files.

CATEGORIES OF RECORDS IN THE SYSTEM:

Copies of medical histories, Secretarial determinations, retirement forms, routine correspondence files, case files, disability retain folders, TDRL punch card data files.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. Chapter 36, Mandatory retirement of officers; Chapter 59, Separation; Chapter 61, Retirement or Separation for Physical Disability; Chapter 63, Retirement for Age; Chapter 867, Retirement for Length of Service; as implemented by Air Force Regulation 35-4, Physical Evaluation for Retention, Retirement and Separation, and 35-7, Service Retirements; and E.O. 9397.

PURPOSE(S):

To provide information on retirement cases and to allow appropriate case processing.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Maintained in visible file binders/cabinets and in microcomputers.

RETRIEVABILITY:

Retrieved by name or Social Security Number (SSN).

SAFEGUARDS:

Records are accessed by custodian of the record system and by person(s) responsible for servicing the record system in performance of their official duties who are properly screened and cleared for need-to-know. Stored in secure building. Computer records are controlled by computer system manager.

RETENTION AND DISPOSAL:

Correspondence files are retained for one year after end of calendar year case was closed or inquiry responded to; disability retain files are retained for 90 days after case is finalized; microcomputer case files are maintained in a retired file indefinitely; case files are retired to Master Personnel Records Group when service and/or disability retirement action has been completed; TDRL correspondence files are destroyed when member is entered into the Headquarters Air Force (HAF) computer system.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150-6001.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information about themselves should address written inquiries to the Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150-6001.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system should address written inquiries to the Assistant Deputy Chief of Staff for Military Personnel, Randolph Air Force Base, TX 78150-6001.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and

appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR part 806b, or may be obtained from the system manager.

RECORD SOURCE CATEGORIES:

Correspondence and forms generated in Retirements Division (HQ AFMPC/MPCAR), military hospitals, HQ USAF Surgeon General (HQ USAF/SG), HQ AFMPC Surgeon (SG) Consolidated Base Personnel Offices and Major Air Commands, by the members themselves, and by the general public or retirement-related matters.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

F190 AF PA B

SYSTEM NAME:

Hometown News Release Background Data File (51 FR 41382, November 14, 1986).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entire entry and replace with "Army and Air Force Hometown News Service, Headquarters Air Force Service and Information News Center, Kelly Air Force Base, TX 78241-5000. Subsystems of the main system may be located at the Public Affairs Office at the Army/Air Force Base, Army/Air National Guard or Army/Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In line 1, in each occurrence of " * * * Air * * * " replace with " * * * Army/Air * * * ".

CATEGORIES OF RECORDS IN THE SYSTEM:

In line 1 after " * * * name * * * " insert " * * * Social Security Number * * * ". In line 4, delete " * * * a USAF Home Town News Release Form * * * " and replace with " * * * an Information for Hometown News Release Form, DD Form 2266 * * * ".

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entire entry and replace with "10 U.S.C. §§ 8013 and 8034, and E.O. 9397."

* * * * *

RETENTION AND DISPOSAL:

In line 1, delete " * * * Home Town * * * " and replace with " * * * Print Media Division, Army and Air Force Hometown News Service files until 60 days * * * ".

SYSTEM MANAGER(S) AND ADDRESS:

Replace entire entry with "Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000."

NOTIFICATION PROCEDURE:

In line 1, delete " * * * Commander, AFSINC * * * " and replace with " * * * Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000."

RECORD ACCESS PROCEDURE:

In lines 1 and 2, delete " * * * the Commander * * * News Center * * * " and replace with " * * * Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000."

* * * * *

F190 AF PA B

SYSTEM NAME:

Hometown News Release Background Data File.

SYSTEM LOCATION:

Army and Air Force Hometown News Service, Headquarters Air Force Service and Information News Center, Kelly Air Force Base, TX 78241-5000. Subsystems of the main system may be located at the Public Affairs Office at the Army/Air Force Base, Army/Air National Guard or Army/Air Force Reserve or similar installation to which an individual is assigned.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

All Army/Air Force active duty military personnel; Army/Air Force Reserve Army/Air National Guard personnel recently selected for promotion, reassigned, awarded a medal or decoration, or who otherwise participated in a newsworthy event.

CATEGORIES OF RECORDS IN THE SYSTEM:

Biographical information including, but not necessarily limited to name, Social Security Number, current grade, marital status, local address, name and address of parents or guardians, educational background and military history, photographs. Information is usually, but not necessarily, contained in an Information for Hometown News Release Form, DD form 2266, or similar form.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

10 U.S.C. 8013 and 8034, and E.O. 9397.

PURPOSE(S):

Preparation of news releases for distribution to newspapers and

broadcast stations throughout the United States.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSE OF SUCH USES:

The "Blanket Routine Uses" that appear at the beginning of the Air Force's compilation of systems of records apply to this system. Information from this system of records may be disclosed to the media as part of a news release.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING AND DISPOSING OF RECORDS IN THE SYSTEM

STORAGE:

Maintained in file folders and visible file binders/cabinets.

Retrieved by name and Social Security Number within date of release.

SAFEGUARDS:

Records are accessed by person(s) responsible for servicing the record system in performance of their official duties. Stored in locked cabinets or rooms.

RETENTION AND DISPOSAL:

Retained in the Print Media Division, Army and Air Force Hometown News Service files until 60 days after monthly cutoff, then destroyed by tearing into pieces, shredding, pulping, macerating or burning. Local files may be retained for one year and are then destroyed by tearing, shredding, pulping, macerating or burning.

SYSTEM MANAGER(S) AND ADDRESS:

Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000.

NOTIFICATION PROCEDURE:

Individual seeking to determine whether this system of records contains information about themselves should address written requests to the Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000. Inquirers about a subsystem should be addressed to the Public Affairs Officer at the base or installation of the individual's assignment. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

RECORD ACCESS PROCEDURE:

Individuals seeking access to records about themselves contained in this system of records should address written inquiries to the Print Media Division, Army and Air Force Hometown News Service, Kelly Air Force Base, TX 78241-5000 or the

installation Public Affairs Officer. Official mailing addresses are published as an appendix to the Air Force's compilation of systems of records.

CONTESTING RECORD PROCEDURE:

The Air Force's rules for accessing records and contesting contents and appealing initial determinations by the individual concerned are published in Air Force Regulation 12-35, 32 CFR Part 806b, or maybe obtained from the system manager.

RECORD SOURCE CATEGORIES:

Information obtained from the individual.

EXEMPTION CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 89-26841 Filed 11-14-89; 8:45 am]

BILLING CODE 3810-01-M

Department of the Army

National Board for the Promotion of Rifle Practice Budget Committee; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of Committee: National Board for the Promotion of Rifle Practice Budget Committee

Date of Meeting: 12 December 1989

Place: Ramada Renaissance Hotel
Washington Dulles International Airport 13869-71 Park Center Road
Herndon, Virginia 22071

Time: 0930-1130

Proposed Agenda:

1. Federal Register Notice of the Meeting
2. Roll Call
3. Approval of previous Board minutes
4. FY 1989 Budget
5. FY 1990 Budget
 - a. HASC Dollar Implication
 - b. Gramm-Rudman-Hollings
6. FY 1992-FY 1997 MACOM POM Submission

This meeting is open to the public. Persons desiring to attend the meeting should contact the undersigned or Ms. Rita G. Cooper at (202) 272-0810 prior to 21 November 1989 to arrange admission.

Dennis W. Galoci,

Assistant Executive Officer, NBPRP.

[FR Doc. 89-26851 Filed 11-14-89; 8:45 am]

BILLING CODE 3710-08-M

National Board for the Promotion of Rifle Practice; Open Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463), announcement is made of the following committee meeting:

Name of Committee: National Board for the Promotion of Rifle Practice.

Date of Meeting: 12 December 1989.

Place: Ramada Renaissance Hotel,
Washington Dulles International Airport, 13869-71 Park Center Road,
Herndon, Virginia 22071.

Time: 1345-1600.

Proposed Agenda

1. Open Prayer and Pledge of Allegiance to the Flag
2. Federal Register Notice of the Meeting
3. Roll Call
4. Proposed New Awards
5. Memorandum of Understanding with the Adjutant General, State of Ohio (re: Camp Perry Usage)
6. Status of Revised Regulations
7. Status of Air Rifle Program
8. Program Review
9. 1989-90 Camp Perry Update
10. Special Programs
11. Ammunition Status
12. Office, Director of Civilian Marksmanship ADP Update
13. Proposed 1990 National Matches Calendar
14. M1 Sales Update
15. International Distinguished Criteria, Change to AR 672-5-1, Military Awards.

This meeting is open to the public.

Persons desiring to attend the meeting should contact the undersigned or Ms. Rita G. Cooper at (202) 272-0810 prior to 21 November 1989 to arrange admission.

Dennis W. Galoci,

Assistant Executive Officer, NBPRP.

[FR Doc. 89-26817 Filed 11-14-89; 8:45 am]

BILLING CODE 3710-08-M

DEPARTMENT OF EDUCATION

[CFDA 84.060A]

Invitation for Applications for New Awards Under the Indian Education Act of 1988, Subpart 1; Formula Grant Program for Fiscal Year 1990

Purpose: Provides grants to local educational agencies (LEAs) and certain Indian tribes and organizations that received funds under this program in fiscal year 1988, and, if sufficient funds become available, as determined under the Act, to schools operated by the Bureau of Indian Affairs (BIA). Supplementary projects that meet the special educational and culturally

related academic needs of Indian children enrolled in the applicant schools are supported.

Deadline for Transmittal of Applications: February 16, 1990.

Deadline for Intergovernmental Review: April 17, 1990.

Applications Available: November 27, 1989.

Available Funds: The appropriation for this program for fiscal year 1990 is \$51,541,000. Pursuant to the Gramm-Rudman-Hollings deficit reduction law, \$48,809,327 is available for grants, of which \$46,593,400 will be allocated only to those LEAs and tribal schools that received funds under this program in fiscal year 1988. The remaining \$2,225,927 will be allocated to BIA-operated schools. These amounts are subject to change pending further action by the Congress. The following estimates are based on the appropriation for fiscal year 1989.

Estimated Range of Awards: \$913 to \$1,236,847.

Estimated Average Size of Awards: \$42,345.

Estimated Number of Awards: 1,163.

Note: The Department is not bound by any estimates in this notice.

Project Period: 12 to 36 months.

Applicable Regulations: (a) The regulations for this program in 34 CFR Parts 250 and 251; and (b) the Education Department General Administrative Regulations (EDGAR) in 34 CFR parts 74, 75, 77, 78, 79, 80, 81 and 85.

For Applications or Information Contact: Julia Lesceux, U.S. Department of Education, 400 Maryland Avenue, SW., room 2177, Washington, DC 20202-6335, Telephone: (202) 732-5146.

Program Authority: 25 U.S.C. 2601-6335, 2651.

Dated: November 8, 1989.

Daniel F. Bonner,
Acting Assistant Secretary, Office of
Elementary and Secondary Education.
[FR Doc. 89-25760 Filed 11-14-89; 8:45 am]
BILLING CODE 4000-01-M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ID-2429-0002 et al.]

Electric rate, Small Power Production, and Interlocking Directorate Filings; William N. D'Onofrio, et al.

November 6, 1989.

Take notice that the following filings have been made with the Commission:

1. William N. D'Onofrio

[Docket No. ID-2429-000]

Take notice that on October 27, 1989, William N. D'Onofrio (Applicant) tendered for filing an Information Report in this docket pursuant to 18 CFR 45.9(c) promulgated under section 305(b) of the Federal Power Act.

The following are public utilities with which the Applicant holds or will hold positions of officer or director:

Indiana Michigan Power Company, Vice
President & Director
Indiana-Kentucky Electric Corporation
Director

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

2. Boston Edison Company

[Docket No. ER89-50-000]

Take notice that on October 6, 1989, Boston Edison Company (Edison) tendered for filing for information purposes pursuant to Appendix Act, Article II of the 1987 Settlement Agreement between Edison and the Town of Belmont the 1988 true up to actual for the Substation 329 Agreement (FPC Rate No. 148).

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

3. Minnesota Power & Light Company

[Docket No. ER90-56-000]

Take notice that Minnesota Power & Light Company (Minnesota Power), 30 West Superior Street, Duluth, Minnesota 55802, on November 2, 1989, tendered for filing a proposed initial Distribution Wheeling Service Agreement (Agreement) between Minnesota Power and United Power Association (UPA). Under this Agreement, Minnesota Power provides UPA with distribution wheeling service for UPA's sale of electric power and energy to members of the Arrowhead Municipal Power Agency. An effective date of January 1, 1990 was requested.

Copies of the proposed Agreement and statements projecting services and revenues for the twelve months immediately following the proposed effective date therefrom were served on UPA and on the Minnesota Public Utilities Commission.

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

4. Consumer Power Company

[Docket No. ER90-55-000]

Take notice Consumers Power Company (Consumers) on November 2, 1989, tendered for filing on behalf of it

and the Detroit Edison Company (Edison) Addendum V to the Operating Agreement dated March 1, 1966 among Consumers, Edison and Indiana Michigan Power Company (Indiana Company). The Commission has designated the Operating Agreement as Consumers' Rate Schedule FPC No. 12.

Addendum V deals with service provided by Consumers and Edison (jointly the "Michigan Companies") to Indiana Company. Addendum V changes rates for emergency service (Service Schedule A), interchange power (Service Schedule C) and short-term power (Service Schedule D) replacing the current fixed rates with flexible rates having a cost-based upper limit when the Michigan Companies generate the power being sold. It also provides for rates applicable to power being supplied from third parties. A floor is set for emergency energy pricing in lieu with the floor accepted for filing in Docket Nos. ER88-504 and ER89-310. Also, a cost-based floor is established for economy energy sales by the Michigan Companies. Addendum V also deletes provisions for the return of equivalent energy currently applicable to emergency energy provided by the Michigan Companies and revises third party short-term power refund provisions applicable to the Michigan Companies.

The proposed effective date of Addendum V is January 1, 1990.

Comment Date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

5. Thomas R. McCaffrey

[Docket No. ID-2428-000]

Take notice that on October 27, 1989, Thomas R. McCaffrey (Applicant) tendered for filing an Informational Report in this docket pursuant to 18 CFR 45.9(c) promulgated under section 305(b) of the Federal Power Act.

The following are public utilities with which the Applicant holds or will hold positions of officer or director:

Columbus Southern Power Company,
President & Director
Ohio Valley Electric Corporation, Director

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

6. John M. Deutch

[Docket No. ID-2430-000]

Take notice that on November 2, 1989, John Deutch, (Applicant) tendered for filing an application under section 305(b) of the Federal Power Act to hold the following positions:

Director, Consumers Power Company

Director, Citicorp
Director, Perkin-Elmer Corporation

Comment date: November 20, 1989, in accordance with Standard Paragraph E at the end of this notice.

Standard Paragraph:

E. Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before the comment date. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26730 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. CP90-195-000 et al.]

Natural gas certificate filings; United Gas Pipe Line Co., et al.

November 6, 1989.

Take notice that the following filings have been made with the Commission:

1. United Gas Pipe Line Company

[Docket No. CP90-195-000]

Take notice that on October 31, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed in Docket No. CP90-195-000, a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act, to transport on an interruptible basis under its blanket certificate Docket No. CP88-6-000, 51,500 MMBtu for Mobil Natural Gas, Inc., a marketer, all as more fully set forth in the request on file with the Commission and open to public inspection.

United states that service commenced October 5, 1989, under § 284.223(a) of the Commission Regulations, as reported in Docket No. ST90-00171 and estimates the volumes transported to be 51,500 MMBtu per day on peak day and average day, and 18,797,500 MMBtu on an annual basis.

United also indicates that no new facilities are to be constructed.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

2. ANR Pipe Line Company

[Docket No. CP90-171-000]

Take notice that on October 30, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-171-000 an application pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act, (18 CFR 157.205) for authorization to transport natural gas on behalf of Exxon Corp. (Exxon), under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 115,000 MMBtu per day for Exxon. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 115,000 MMBtu, 115,000 MMBtu and 41,975,000 MMBtu respectively.

ANR advises that service under § 284.223(a) commenced October 1, 1989, as reported in Docket No. ST90-218.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

3. Northern Natural Gas Company, Division of Enron Corp.

[Docket No. CP90-172-000]

Take notice that on October 30, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), 1400 Smith Street, Houston, Texas 77002, filed in Docket No. CP90-172-000, a request pursuant to Northern's blanket authority granted on September 1, 1982 in Docket No. CP82-401-000 and § 157.212 of the Commission's Regulations, for authority to operate and maintain for sales service, two existing delivery points and appurtenant facilities for the community of Rosemount, Minnesota and for Farmland Industries at Beatrice, Nebraska, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Specifically, Northern requests authority to operate and maintain for sales service two existing delivery points for Peoples Natural Gas Company, Division of UtiliCorp United Inc. (Peoples). The volumes delivered to

the delivery points will be served from the existing firm entitlements of Rosemount, Minnesota and Fairbury, Nebraska.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

4. United Gas Pipe Line Company

[Docket No. CP90-166-000]

Take notice that on October 30, 1989, United Gas Pipe Line Company (United), P.O. Box 1478, Houston, Texas 77251-1478, filed a request with the Commission in Docket No. CP90-166-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to provide interruptible transportation service on behalf of Kogas, Inc. (Kogas), a natural gas marketer, under United's blanket certificate issued in Docket No. CP88-6, all as more fully set forth in the request which is open to public inspection.

United states that it proposes to transport, pursuant to their March 17, 1989, agreement, 103,000 MMBtu equivalent of natural gas on peak and average days, and 37,595,000 MMBtu annually for Kogas' behalf. United states that it commenced service for Kogas on June 14, 1989, under the automatic 120-day authorization provisions of § 284.223(a) of the Regulations as reported in Docket No. ST89-4777. United also states that it would receive Kogas' gas at an existing interconnection in West Cameron Block 538, offshore Louisiana, and deliver gas for Kogas' account at an existing interconnection in West Cameron Block 537, offshore Louisiana.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

5. ANR Pipe Line Company

[Docket No. CP90-146-000]

Take notice that on October 27, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed a request with the Commission in Docket No. CP90-146-000 pursuant to § 157.205 of the Commission's Regulations under the Natural Gas Act (NGA) for authorization to transport natural gas for MidCon Marketing Corp. (MidCon), a natural gas marketer, under the blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the NGA, all as more fully set forth in the request which is open to public inspection.

ANR proposes to transport on an interruptible basis for MidCon up to 10,000 dekatherms of natural gas on

peak and average days and 3,650,000 dekatherms annually. ANR states that it would receive the gas at ANR's existing receipt points in Illinois, Kansas, Louisiana, offshore Louisiana, Oklahoma, Texas, and offshore Texas, and deliver MidCon's gas at existing interconnections in Illinois. ANR states that service commenced September 28, 1989, under the automatic 120-day authorization provisions of § 284.223(a) of the Regulations, as reported in Docket No. ST90-126.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

Take notice that on October 31, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas, filed in Docket No. CP90-205-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas for Chevron USA, Inc. (Chevron), a producer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport on an interruptible basis up to 300,000 dekatherm (dt) of natural gas per day on behalf of Chevron pursuant to a transportation agreement dated September 21, 1989, between Tennessee and Chevron. Tennessee would receive gas at various existing points of receipt on its system in offshore Texas, offshore Louisiana, Louisiana, Texas and Alabama and redeliver for volumes, at various existing delivery points in Tennessee, Pennsylvania, New York, Connecticut, Ohio, Mississippi and Louisiana.

Tennessee further states that the estimated average daily and annual quantities would be 300,000 dt and 109,500,000 dt, respectively. Service under Section 284.223(a) commenced on October 1, 1989, as reported in Docket No. ST90-254-000, it is stated.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

6. Questar Pipeline Company

[Docket No. CP90-185-000]

Take notice that on October 31, 1989, Questar Pipe Line Company (Questar), 79 South State Street, Salt Lake City, Utah 84111, filed in Docket No. CP90-185-000 a request pursuant to §§ 157.205 and 284.223 (18 CFR 157.205 and 284.223)

of the Commission's Regulations under the Natural Gas Act for authority to provide interruptible transportation service for Marathon Oil Company (Marathon), under Questar's blanket transportation certificate which was accepted by Questar's blanket transportation certificate which was accepted by Questar on September 20, 1988, in Docket No. CP88-650-000, all as more fully set forth in the request is on file with the Commission and open to public inspection.

Questar states that pursuant to a transportation agreement dated August 30, 1989, under its Rate Schedule T-2 it proposes to transport for Marathon up to 2,700 MMBtu equivalent of gas per peak day and estimated quantities of 1,200 MMBtu and 438,000 MMBtu equivalent of gas per average day and annually, respectively. Questar indicates that it will receive the gas from Marathon at various points on Questar's pipeline system in the State of Wyoming and deliver the gas for the account of Marathon to Colorado Interstate Gas Company and Northwest Pipeline Corporation, in the State of Wyoming, for subsequent transportation.

Questar states that it commenced the transportation of gas for Marathon pursuant to § 284.223(a) of the Commission's Regulations on September 1, 1989, as reported to the Commission in Docket No. ST89-4781-000 on September 21, 1989.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

7. Tennessee Gas Pipeline Company

[Docket No. CP90-162-000]

Take notice that on October 30, 1989, Tennessee Gas Pipeline Company (Tennessee), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-162-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) and the Natural Gas Policy Act (18 CFR 284.223) for authorization to transport gas for Arco Natural Gas Marketing, Inc. (Arco), a marketer of natural gas, under Tennessee's blanket certificate issued in Docket No. CP87-115-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

Tennessee proposes to transport on a firm basis up to 20,000 dekatherm (dt) of natural gas per day on behalf of Arco pursuant to a transportation agreement dated October 1, 1989, between Tennessee and Arco. Tennessee would receive gas at various existing points of

receipt on its system in offshore Louisiana and redeliver equivalent volumes, less fuel and lost and unaccounted for volumes, at an existing point of delivery in Louisiana.

Tennessee further states that the estimated average daily and annual quantities would be 20,000 dt and 7,300,000 dt, respectively. Service under § 284.223(a) commenced on October 1, 1989, as reported in Docket No. ST90-251-000, it is stated.

8. ANR Pipe Line Company

[Docket No. CP90-150-000]

Take notice that on October 27, 1989, ANR Pipe Line Company (ANR), 500 Renaissance Center, Detroit, Michigan 48243, filed in Docket No. CP90-150-000 an application pursuant to §§ 157.205 of the Commission's Regulations under the Natural Gas Act (18 CFR 157.205) for authorization to transport natural gas on behalf of Northwestern Mutual Life Insurance Co. (Northwestern), under ANR's blanket certificate issued in Docket No. CP88-532-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with the Commission and open to public inspection.

ANR proposes to transport, on an interruptible basis, up to 11,200 MMBtu per day for Northwestern. ANR states that construction of facilities would not be required to provide the proposed service.

ANR further states that the maximum day, average day, and annual transportation volumes would be approximately 11,200 MMBtu, 11,200 MMBtu and 4,088,000 MMBtu respectively.

ANR advises that service under § 284.223(a) commenced September 12, 1989, as reported in Docket No. ST90-136.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

9. Colorado Interstate Gas Company

[Docket No. CP90-169-000]

Take notice that on October 30, 1989, Colorado Interstate Gas Company (CIG), Post Office Box 1087, Colorado Springs, Colorado 80944, filed in Docket No. CP90-169-000 a request pursuant to §§ 157.205 and 284.223 of the Commission's Regulations for authorization to transport natural gas for Exxon Corporation (Exxon), a producer, under CIG's blanket certificate issued in Docket No. CP86-589-000 pursuant to section 7 of the Natural Gas Act, all as more fully set forth in the request which is on file with

the Commission and open to public inspection.

CIG proposes to transport on an interruptible basis up to 30,000 Mcf of natural gas on a peak day, 15,000 Mcf on an average day and 5,475,000 Mcf on an annual basis for Exxon. CIG states that it would perform the transportation service for Exxon under CIG's Rate Schedule TI-1. CIG indicates that it would transport the gas from receipt points in Wyoming, to a delivery point located in Sherman County, Texas.

It is explained that the service commenced August 1, 1989, under the automatic authorization provisions of § 284.223 of the Commission's Regulations, as reported in Docket No. ST90-245. CIG indicates that no new facilities would be necessary to provide the subject service.

Comment date: December 21, 1989, in accordance with Standard Paragraph G at the end of this notice.

10. Midwestern Gas Transmission

[Docket No. CP90-174-000]

Take notice that on October 30, 1989, Midwestern Gas Transmission Company (Applicant), 1010 Milam Street, Houston, Texas 77252, filed an application pursuant to section 7(c) of the Natural Gas Act (NGA), and § 284.221 of the Commission's Regulations thereunder for authorization to provide transportation service for others, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Applicant also requests pregranted abandonment authority of firm sales obligations that are converted to firm transportation and appropriate certificate and abandonment authority to allow firm sales and transportation customers to transfer contract demand to other firm sales and transportation customers under prior notice procedures.

Applicant states that it is requesting a blanket certificate of public convenience and necessity to enable it to provide self-implementing transportation service for others and for pre-granted abandonment of such self-implementing transportation services in accord with § 284.221(d) of the Commission's Regulations. Applicant states that its request conforms to Article III of the Stipulation and Agreement filed in Docket No. RP89-35 on August 29, 1989, which the Presiding Administrative Law Judge certified to the Commission on October 24, 1989. Applicant states that it will comply with the conditions set forth in § 284.221(c) of the Commission's Regulations.

Applicant states that, on September 29, 1989, in Docket No. RP89-35-005, the Commission accepted for filing, subject to refund and modifications, interim rates and permanent terms and conditions of service under which Applicant would provide Part 284 firm and interruptible transportation service as set forth in Appendices A and B to the Docket No. RP89-35 stipulation. It is indicated that Appendix C of the stipulation sets forth final settlement rates for all services.

Applicant requests the Commission to suspend temporarily the operation of § 284.10 of the Commission's Regulations with respect to Applicant's Rate Schedule CD-1 customers in accord with Article IV of the Docket No. RP89-35 Stipulation. Applicant states that under Article IV Midwestern's firm sales customers are given the right, during the term of the stipulation, to convert firm sales entitlements to firm transportation as Applicant is permitted to convert under any gas inventory charge adopted by Tennessee Gas Pipeline Company (Tennessee), interim or permanent. It is indicated that if a gas inventory charge tariff that provides for the conversion of firm sales entitlements to firm transportation service has not become effective for Tennessee on or before April 1, 1991, then the suspension of conversion rights under § 284.10 would terminate.

Applicant also requests the Commission, pursuant to section 7(b) of the NGA, to grant it the authority to abandon now and in the future firm sales service that Applicant's customers elect to convert to firm transportation pursuant to § 284.10 of the Commission's Regulations or other authorizations. Applicant avers that grant of this authority will give it the flexibility to realign its services without the expense and delay of filing individual applications to abandon services which are no longer desired by its customers. Applicant states further that the requested pregranted abandonment authority is identical to authority granted by the Commission in other cases.

Applicant further requests certificate and abandonment authority under sections 7(b) and 7(c) of the NGA to allow firm sales customers to transfer their contract demands to other customers. Applicant has included *proforma* tariff sheets to establish a new Article XXIII to its General Terms and Conditions which allows firm sales and transportation customers to have their firm sales and firm transportation rights reassigned to others temporarily or permanently. Applicant states that in order to allow opportunity for public

comment on individual transactions and specific Commission scrutiny of firm sales and transportation transfers where appropriate, Applicant proposes to employ prior notice and protest procedures modeled after the procedures in § 157.205 of the regulations. Applicant states that its proposed program to allow transfers of firm sales and firm transportation service rights is responsive to Commission policy and the desires of Applicant's customers.

Comment date: November 27, 1989, in accordance with Standard Paragraph F at the end of this notice.

Standard Paragraphs

F. Any person desiring to be heard or make any protest with reference to said filing should on or before the comment date file with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this filing if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for the applicant to appear or be represented at the hearing.

G. Any person or the Commission's staff may, within 45 days after the issuance of the instant notice by the Commission, file pursuant to Rule 214 of

the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to § 157.205 of the Regulations under the Natural Gas Act (18 CFR 157.205) a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the time allowed for filing a protest, the instant request shall be treated as an application for authorization pursuant to section 7 of the Natural Gas Act.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26731 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-1-000]

Alabama-Tennessee Natural Gas Co.; Proposed PGA Rate Adjustment

(November 8, 1989).

Take notice that on November 1, 1989 Alabama-Tennessee Natural Gas Company (Alabama-Tennessee), Post Office Box 918, Florence, Alabama, 35631, tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, the following tariff sheet:

Nineteenth Revised Sheet No. 4

The tariff sheet is proposed to become effective January 1, 1990. Alabama-Tennessee states that the purpose of this filing is to adjust its rates to conform to the rates of its suppliers.

Alabama-Tennessee states that the instant filing represents its annual purchased gas cost adjustment pursuant to § 154.305 of the Commission's regulations and contains the Assessment of Past Performance required by Section 154.306.

Alabama-Tennessee has requested any necessary waivers of the Commission's Regulations in order to permit the tariff sheets to become effective as proposed.

Alabama-Tennessee states that copies of the tariff filing have been mailed to all of its jurisdictional customers and affected State Regulatory Commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rule 211 or Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 29, 1989. Protests will be

considered by the Commission in determining the appropriate action to be taken but will not serve to make protestants parties to the proceeding. Any person wishing to become a party to the proceeding must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26732 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. SA90-1-000]

Amoco Gas Co.; Petition for Adjustment

November 8, 1989.

Take notice that on October 23, 1989, Amoco Gas Company (Amoco Gas) filed, pursuant to § 502(c) of the Natural Gas Policy Act of 1978 (NGPA), a petition requesting an adjustment from §§ 284.123(b)(1)(ii) and 284.224(e)(2)(ii) of the Commission's regulations to permit Amoco Gas to use its tariff on file with the Railroad Commission of Texas (Railroad Commission) as the applicable rate for interruptible transportation under its blanket certificate.

Amoco Gas has on file with the Railroad Commission effective rates for intrastate transportation services. Amoco Gas, however, has only one city gate sale, and the rate for that sale has not been the subject of a cost-of-service hearing before the Railroad Commission. Amoco Gas proposes to request the Railroad Commission to make a determination that the rate that it has on file with the Railroad Commission is cost-based and fair and equitable, and it will make this filing not later than thirty (30) days after the date that the Commission grants the requested adjustment. If the rate approved by the Railroad Commission is less than the rate requested herein, Amoco Gas will refund any amounts collected in excess of the maximum rate that the Railroad Commission approves. Amoco Gas states that the Commission should grant the requested adjustment to prevent the special hardship and inequity associated with being subject to dual rate jurisdiction of both the Railroad Commission and this Commission.

The procedures applicable to the conduct of this adjustment proceeding are found in subpart K of the Commission's Rules of Practice and Procedure. Any person desiring to participate in this adjustment proceeding must file a motion to intervene in accordance with the

provisions of subpart K. All motions must be filed within 15 days after publication of this notice in the Federal Register. The petition is on file with the Commission and is available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26733 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-2-000]

East Tennessee Natural Gas Co.; Rate Filing Pursuant to Tariff Rate Adjustment Provisions

(November 8, 1989).

Take notice that on November 1, 1989, East Tennessee Natural Gas Company (East Tennessee) hereby files ten copies of the following revised tariff sheets to Original Volume No. 1 of its FERC Gas Tariff to be effective January 1, 1990.

Fifty-Fourth Revised Sheet No. 4

East Tennessee states that the purpose of this revision is to institute the Annual PGA pursuant to §§ 22.2 and 22.3 of the General Terms and Conditions of East Tennessee's Tariff.

East Tennessee states that the current Purchased Gas Cost Rate Adjustments reflected on Fifty-Fourth Revised Sheet No. 4 consists of \$.3592 per dekatherm adjustment applicable to the gas rate and to Rate Schedule SWS, \$.62 per dekatherm applicable to the D₁ component of the demand rates and a \$.0029 per dekatherm adjustment to the D₂ component.

East Tennessee states that the revisions also reflect a \$(.0082) per dekatherm surcharge adjustment to the gas rates and \$(.40) per dekatherm surcharge adjustment to the demand D₁ rate and \$(.0003) per dekatherm surcharge to the demand D₂ rate for amortizing the Unrecovered Gas Cost Account.

East Tennessee states that the current adjustment to its demand rates (D₁ and D₂) reflect the demand charges from Tennessee Gas Pipeline company effective January 1, 1990. East Tennessee states that current adjustments to its gas rate reflect increases in the gas rate of Tennessee and other various nonpipeline-suppliers.

East Tennessee states that copies of the filing have been mailed to all of its jurisdictional customers and affected state regulatory commissions.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825

North Capitol Street NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. All such motions or protests should be filed on or before November 29, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene; provided, however, that any person who had previously filed a motion to intervene in this proceeding is not required to file a further motion. Copies of this filing are on file with the commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26734 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. ES90-6-000]

El Paso Electric Co.; Application

November 7, 1989.

Take notice that on November 2, 1989, El Paso Electric Company ("Applicant") filed an application with the Federal Energy Regulatory Commission ("Commission"), seeking authority pursuant to section 204 of the Federal Power Act, to assume liability for borrowings of up to \$10 million of indebtedness to be incurring by Big Bend Resources Trust, an independent Trust established for the principal purpose of providing financing for the Applicant's fuel oil requirements through May 31, 1991.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426 in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). All such motions or protests should be filed on or before November 24, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the

Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26735 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket Nos. TA90-1-59-000 and TM90-2-59-000]

Northern Natural Gas Co.; Purchased Gas Cost Adjustment Rate Change

November 8, 1989.

Take notice that on November 1, 1989, Northern Natural Gas Company, Division of Enron Corp. (Northern), tendered for filing, as part of Northern's F.E.R.C. Gas Tariff, Third Revised Volume No. 1 (Volume 1 Tariff) and Original Volume No. 2 (Volume 2 Tariff), the following tariff sheets:

Third Revised Volume No. 1

Fifty-Fourth Revised Sheet No. 4a
Seventy-Fifth Revised Sheet No. 4b
Forty-Third Revised Sheet No. 4b.1
Ninth Revised Sheet No. 4g
Tenth Revised Sheet No. 4g.1
Eleventh Revised Sheet No. 4g.2

Original Volume No. 2

Eighty-Third Revised Sheet No. 1c
Thirteenth Revised Sheet No. 884
Thirteenth Revised Sheet No. 891

Such revised tariff sheets are required in order that Northern may place into effect the proposed rates on January 1, 1990 to:

(1) Reflect Northern's cost of purchased gas to be experienced during the 1st Quarter, 1990, pursuant to Paragraph 18 of Northern's Volume 1 Tariff, and Paragraph 1 of Northern's Volume 2 Tariff.

(2) Reflect a surcharge to amortize the underrecovered commodity cost of purchased gas account for the twelve months ended August 31, 1989, and a surcharge to amortize the recovered demand cost of purchased gas account for the eleven months ended August 31, 1989, both pursuant to Paragraph 18 of Northern's Volume 1 Tariff and Paragraph 1 of Northern's Volume 2 Tariff and also to reflect certain revenue tracking adjustments.

(3) Track the change in the cost of transportation of gas through the Alaska Natural Gas Transportation System (ANGTS) pursuant to Paragraph 21 of Northern's Volume 1 Tariff and Paragraph 4 of Northern's Volume 2 Tariff. In addition, this filing reflects a positive surcharge to amortize the underrecovered cost of transportation of gas through ANGTS for the twelve months ended September 30, 1989.

In the filing, Northern has established a ceiling PGA rate of \$2.9120 per MMBtu which reflects an increase of \$0.5779 per MMBtu from the approved 4th Quarter 1989 ceiling PGA rate of \$2.3341 per MMBtu.

Northern states that since the projection of 1st Quarter, 1990 gas purchased costs may not reflect the level of gas purchased costs it actually will experience on January 1, 1990, it may not bill the commodity rates established in its filing on January 1, 1990. Instead, Northern states that it will utilize its flexible PGA tariff mechanism, if necessary, to reflect in the commodity rates on January 1, 1990, the estimated actual cost of purchased gas being experienced at that time.

Any person desiring to be heard or to protest said filing should file a motion to intervene or protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC, 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). All such motions or protests should be filed on or before November 29, 1989 for TA90-1-59-000 and November 15, 1989 for TM90-2-59-000. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a motion to intervene. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26750 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. TA90-1-40-001]

Raton Gas Transmission Co.; Annual PGA Filing

November 8, 1989.

Take notice that Raton Gas Transmission Company (Raton) on October 19, 1989, tendered for filing to its FERC Gas Tariff Original Volume No. 1, Substitute Fourteenth Revised Sheet No. 4.

Raton states that the changes in the filing have resulted in an increase in commodity rate of 0.43 cents which represents the change in Colorado Interstate Gas Company rate in its July 1989 rate from the April 1989 rate which was erroneously utilized in our previous

filing and a decrease of 0.27 cents in the SurchARGE rate.

Raton also states that there were no refunds received or paid during the period involved.

Any person desiring to protest said filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street NE., Washington, DC 20426, in accordance with Rules 214 and 211 of the Commission's Rules of Practice and Procedure 18 CFR 385.214, 385.211 (1988). All such protests should be filed on or before November 15, 1989. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and are available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26736 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. RP89-141-003]

Sea Robin Pipeline Co.; Compliance Filing

November 8, 1989.

Taken notice that on November 3, 1989, Sea Robin Pipeline Company (Sea Robin) submitted for filing a revised tariff sheet and certain workpapers in response to the Commission's October 5, 1989 Order in this proceeding. The revised tariff sheet tendered for filing is part of Sea Robin's Original Volume No. 1 of its FERC Gas Tariff.

To be Effective April 1, 1989

Second Substitute Original Sheet No. 4-D

Sea Robin states that this tariff sheet reflects Sea Robin's compliance with the text of the October 5 Order which requires Sea Robin to delete the payments made by United Gas Pipe Line Company (United) to Sonat Exploration Company, an affiliate of Southern Natural Company (Southern), from the costs allocated to United. Further, this tariff sheet is being filed without prejudice to Sea Robin's right to request rehearing of the October 5 Order, and is filed subject to the Commission's action on such a rehearing request. The filing is also made subject to Sea Robin's right to seek judicial review of any such Commission orders in this proceeding.

Any persons desiring to protest said

filing should file a protest with the Federal Energy Regulatory Commission, 825 North Capitol Street, NE., Washington, DC 20426, in such accordance with sections 285.214 and 385.211 of the Commission's regulations. All such protests should be filed on or before November 16, 1989.

Protests will be considered by the Commission in determining appropriate action to be taken, but will not serve to make protestants parties to the proceedings. Persons that are already parties to this proceeding need not file a motion to intervene in this matter. Copies of this filing are on file with the Commission and area available for public inspection.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26737 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-140-000]

Trailblazer Pipeline Co.; Application

November 7, 1989.

Take notice that on October 27, 1989, Trailblazer Pipeline Company (Trailblazer), 701 East 22nd Street, Lombard, Illinois 60148, filed in Docket No. CP90-140-000 an application pursuant to section 7(c) of the Natural Gas Act and § 284.221 of the Commission's Regulations for a blanket certificate of public convenience and necessity authorizing the transportation of natural gas, all as more fully set forth in the application which is on file with the Commission and open to public inspection.

Trailblazer states that on March 23, 1989, it filed an offer of settlement in Docket Nos. RP84-94-000, *et al.* The settlement covered Trailblazer's general rate proceeding in Docket No. RP84-94-000 and a consolidated filing by Trailblazer in Docket No. RP85-66-000 relating to the level of the rate for interruptible service under its Rate Schedule I, it is indicated. In addition to a comprehensive settlement of Trailblazer's rate proceedings, the settlement provided for initiation of open-access transportation, it is stated. Trailblazer states that the settlement in Docket No. RP-94-000, *et al.* was approved by the Commission in the order issued on October 6, 1989 (October 6, order). Trailblazer states that the open-access transportation would be governed by the open-access tariff sheets approved with modifications in the October 6, order and submitted by Trailblazer on

October 11, 1989, in Docket No. RP90-9-000. Also, in Docket No. RP90-9-000, Trailblazer filed to commence performing transportation under section 311 of the Natural Gas Policy Act of 1978, it is indicated. Trailblazer states that it would comply with the conditions in § 284.221(c) of the Commission's Regulations, which paragraph refers to subpart A of part 284 of the Commission's Regulations.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate and permission and approval for the proposed abandonment are required by the public convenience and necessity, if a motion for leave to intervene is timely filed, or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Trailblazer to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26738 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

[Docket No. CP90-120-000]**Viking Gas Transmission Co.;
Application**

November 7, 1989.

Take notice that on October 24, 1989, Viking Gas Transmission Company (Viking), P.O. Box 2511, Houston, Texas 77252, filed in Docket No. CP90-120-000 an application pursuant to section 7(c) of the Natural Gas Act for a certificate of public convenience and necessity authorizing Viking to transport natural gas for Natural Gas Clearinghouse (NGC), all as more fully set forth in the application which is on file with the Commission and open to public inspection.

It is stated that Viking proposes to transport up to a maximum daily quantity of 363,542 dt equivalent of natural gas on an interruptible basis for NGC. Viking indicates that it would transport the gas from a point of interconnection with TransCanada Pipelines Ltd., near Emerson, Manitoba, to a point of interconnection with ANR Pipeline Company (ANR) near Marshfield, Wisconsin.

Viking states that the proposed transportation service for NGC will replace the service applied for by Midwestern Gas Transmission Company in Docket No. CP88-665-000.

Viking states that the rate to be paid by NGC will be equal to the rate set forth in Viking's Rate Schedule IT-2.

Viking states that the proposed transportation service will enable NGC to meet its existing market requirements and any anticipated market growth, as well as providing access to additional markets for NGC's Canadian and domestic suppliers.

Any person desiring to be heard or to make any protest with reference to said application should on or before November 28, 1989, file with the Federal Energy Regulatory Commission, Washington, DC 20426, a motion to intervene or a protest in accordance with the requirements of the Commission's Rules of Practice and Procedure (18 CFR 385.214 or 385.211) and the Regulations under the Natural Gas Act (18 CFR 157.10). All protests filed with the Commission will be considered by it in determining the appropriate action to be taken but will not serve to make the protestants parties to the proceeding. Any person wishing to become a party to a proceeding or to participate as a party in any hearing therein must file a motion to intervene in accordance with the Commission's Rules.

Take further notice that, pursuant to the authority contained in and subject to

jurisdiction conferred upon the Federal Energy Regulatory Commission by sections 7 and 15 of the Natural Gas Act and the Commission's Rules of Practice and Procedure, a hearing will be held without further notice before the Commission or its designee on this application if no motion to intervene is filed within the time required herein, if the Commission on its own review of the matter finds that a grant of the certificate is required by the public convenience and necessity. If a motion for leave to intervene is timely filed or if the Commission on its own motion believes that a formal hearing is required, further notice of such hearing will be duly given.

Under the procedure herein provided for, unless otherwise advised, it will be unnecessary for Viking to appear or be represented at the hearing.

Lois D. Cashell,

Secretary.

[FR Doc. 89-26739 Filed 11-14-89; 8:45 am]

BILLING CODE 6717-01-M

FEDERAL MARITIME COMMISSION

[Agreement No. 224-200057-003]

**Tampa Port Authority/Tampa Bay
International Terminal Agreement;
Erratum**

The Federal Register notice published on November 3, 1989, (Vol. 54, No. 212, FR 46460), incorrectly identified Tampa Port Authority/Tampa Bay International Terminal Agreement as Agreement No. 224-200057-002, whereas, it should have been noticed as Agreement No. 224-200057-003.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-26742 Filed 11-14-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10220. Interested parties may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the Federal Register in which this notice

appears. The requirements for comments are found in § 572.603 of Title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 224-200303

Title: Jacksonville Port Authority

Terminal Agreement:

Parties:

Jacksonville Port Authority (JPA)
C.N. Lloyd Brasileiro Steamship Line
(Lloyd)

Synopsis: The Agreement provides that JPA will grant Lloyd certain tariff discounts for wharfage charges and charges for receiving and delivering containers and chassis. Lloyd guarantees 30 vessel calls per year at the Port of Jacksonville.

Agreement No.: 224-010974-004

Title: Port of Oakland (Terminal

Agreement)

Parties:

Port of Oakland (Port)
International Transportation Service,
Inc. (ITS)

Synopsis: The Agreement permits Hanjin Shipping to move its operations to the ITS managed Outer Harbor Berth 25-26 facility due to emergency conditions caused by the October 17th earthquake.

Agreement No.: 224-010631-003

Title: Port of Oakland Terminal

Agreement

Parties:

Port of Oakland (Port)
Hanjin Shipping Co. (Hanjin)

Synopsis: The Agreement provides for Hanjin's Transfer of operations from the 7th Street Marine Terminal to the Port's Outer Harbor Berth 25-26 facility due to emergency conditions covered by the October 17th earthquake.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-26740 Filed 11-14-89; 8:45 am]

BILLING CODE 6730-01-M

Agreement(s) Filed

The Federal Maritime Commission hereby gives notice of the filing of the following agreement(s) pursuant to section 5 of the Shipping Act of 1984.

Interested parties may inspect and obtain a copy of each agreement at the Washington, DC Office of the Federal Maritime Commission, 1100 L Street, NW., Room 10325. Interested parties

may submit comments on each agreement to the Secretary, Federal Maritime Commission, Washington, DC 20573, within 10 days after the date of the **Federal Register** in which this notice appears. The requirements for comments are found in § 572.603 of title 46 of the Code of Federal Regulations. Interested persons should consult this section before communicating with the Commission regarding a pending agreement.

Agreement No.: 212-010286-022

Title: South Europe/U.S.A. Pool Agreement.

Parties:

Compania Trasatlantica Espanola, S.A.
Costa Container Line, A Division of
Contship Containerlines Limited
Evergreen Marine Corporation, (Taiwan)
Ltd.

Farrell Lines, Inc.

"Italia" di Navigazione, S.P.A.

Jugolinija

Lykes Bros. Steamship Co., Inc.

A.P. Moller-Maersk Line

Nedlloyd Lijnen B.V.

P & O Containers (TFL) Ltd.

Sea-Land Service, Inc.

Zim Israel Navigation Company, Ltd.

Synopsis: The modification proposes to extend by two months, from January 31, 1991 to March 31, 1991, the date that a member may withdraw from the Pool Agreement or any Pool Section without penalty.

Agreement No.: 202-010829-012

Title: Eurocorde Discussion Agreement

Parties:

North Europe-USA Rate Agreement
USA-North Europe Rate Agreement
Evergreen Marine Corp. (Taiwan), Ltd.
American Transport Lines, Ltd.
Mediterranean Shipping Co.
Orient Overseas Container Line (UK)
Ltd.

South Atlantic Cargo Shipping, NV

Lykes Bros. Steamship Co., Inc.

Polish Ocean Lines

Independent Container Line Limited

Topgallant Lines, Inc.

Synopsis: The Proposed modification would extend the expiration date of the caucus authority of the independent carrier parties from December 31, 1989 to June 30, 1990.

Agreement No.: 217-010855-002

Title: V.A.G. Transport/Hoegh-Ugland Auto Liners Space Charter Agreement.

Parties:

V.A.G. Transport GmbH ("V.A.G. Transport")

Hoegh-Ugland Auto Liners A/S
("Hoegh-Ugland")

Synopsis: The proposed amendment would permit V.A.G. Transport to

charter space to, as well as from, Hoegh-Ugland. It would also establish a ninety day notice period for termination of the Agreement by either party.

Agreement No.: 207-011257

Title: Wallenius/NOSAC Far East Joint Service Agreement.

Parties:

Walleniusrederierna AB

Norwegian Specialized Autocarriers—
NOSAC

Synopsis: The proposed agreement would permit the parties to operate a joint cargo service, utilizing roll-on roll-off vessels, to be known as the Wallnos Far East Service in the trade from United States ports, including U.S. commonwealths, territories and possessions, to ports and islands in the Far East and Pacific Ocean east of Pakistan, and inland points via all such ports. The Agreement does not apply to forest products.

By Order of the Federal Maritime Commission.

Dated: November 8, 1989.

Ronald D. Murphy,

Assistant Secretary.

[FR Doc. 89-26741 Filed 11-14-89; 8:45 am]

BILLING CODE 6730-01-M

FEDERAL RESERVE SYSTEM

The Dai-Ichi Kangyo Bank, Ltd.; Acquisition of Company Engaged in Permissible Nonbanking Activities

The organization listed in this notice has applied under § 225.23 (a)(2) or (f) of the Board's Regulation Y (12 CFR 225.23 (a)(2) or (f)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. § 1843(a)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to acquire or control voting securities or assets of a company engaged in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States and the world.

The application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that

outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interest, or unsound banking practices. Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Comments regarding the application must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 6, 1989.

A. Federal Reserve Bank of San Francisco (Harry W. Green, Vice President) 101 Market Street, San Francisco, California 94105:

1. *The Dai-Ichi Kangyo Bank, Ltd.*, Tokyo, Japan; to acquire at least 60 percent of the voting shares of The CIT Group Holdings, Inc., New York, New York, and thereby engage in commercial finance, leasing, factoring, sales finance, credit servicing, community development, the sale of credit or credit related life, accident and health, and property and casualty insurance, and activities incidental thereto, that are permissible for bank holding companies under § 225.25(b)(1), (5), (6) and (8) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26763 Filed 11-14-89; 8:45 am]

BILLING CODE 6210-01-M

Keystone Financial, Inc., et al.; Applications To Engage de Novo in Permissible Nonbanking Activities

The companies listed in this notice have filed an application under § 225.23(a)(1) of the Board's Regulation Y (12 CFR 225.23(a)(1)) for the Board's approval under section 4(c)(8) of the Bank Holding Company Act (12 U.S.C. 1843(c)(8)) and § 225.21(a) of Regulation Y (12 CFR 225.21(a)) to commence or to engage *de novo*, either directly or through a subsidiary, in a nonbanking activity that is listed in § 225.25 of Regulation Y as closely related to banking and permissible for bank holding companies. Unless otherwise noted, such activities will be conducted throughout the United States.

Each application is available for immediate inspection at the Federal

Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether consummation of the proposal can "reasonably be expected to produce benefits to the public, such as greater convenience, increased competition, or gains in efficiency, that outweigh possible adverse effects, such as undue concentration of resources, decreased or unfair competition, conflicts of interests, or unsound banking practices." Any request for a hearing on this question must be accompanied by a statement of the reasons a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute, summarizing the evidence that would be presented at a hearing, and indicating how the party commenting would be aggrieved by approval of the proposal.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than December 7, 1989.

A. Federal Reserve Bank of Philadelphia (Thomas K. Desch, Vice President), 100 North 6th Street, Philadelphia, Pennsylvania 19105:

1. *Keystone Financial, Inc.*, Harrisburg, Pennsylvania; to engage *de novo* through its subsidiary Keystone Financial Leasing Corporation, Harrisburg, Pennsylvania, in leasing personal or real property or acting as agent, broker, or adviser in leasing such property, pursuant to § 225.25(b)(5) of the Board's Regulation Y.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *First National Corporation of Picayune*, Picayune, Mississippi; to engage *de novo* through its subsidiary Community Finance, Inc. (Company), Picayune, Mississippi, in insurance activities related to extension of credit, through Company, its proposed new subsidiary. Specifically, Applicant proposes to sell, as agent, the following credit products: (1) Credit life; (2) accident and health; (3) household goods credit property; (4) creditor protection single interest auto and, (5) low value dwelling, pursuant to § 225.25(b)(8)(ii) of the Board's Regulation Y.

C. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President), 411 Locust Street, St. Louis, Missouri 63166:

1. *Magna Group, Inc.*, Belleville, Illinois; to engage *de novo* in the sale and issuance of traveler's checks in

central and southern Illinois, pursuant to § 225.25(b)(12) of the Board's Regulation Y.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26764 Filed 11-14-89; 8:45 am]

BILLING CODE 6210-01-M

David B. Lilly, Jr.; Change in Bank Control Notices; Acquisitions of Shares of Banks or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. Once the notices have been accepted for processing, they will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than December 1, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President), 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mr. David B. Lilly, Jr.*, Middleburg, Virginia; to acquire 17.92 percent of the voting shares of Harvest Bancorp, Inc., Hamilton, Virginia, and thereby indirectly acquire The Farmers & Merchants National Bank of Hamilton, Hamilton, Virginia.

B. Federal Reserve Bank of Atlanta (Robert E. Heck, Vice President), 104 Marietta Street, NW., Atlanta, Georgia 30303:

1. *Armando Ramon Vicente*, Miami, Florida; to acquire an additional 23.9 percent (totalling 24.6 percent) of the voting shares of Bank M, Miami, Florida.

C. Federal Reserve Bank of Chicago (David S. Epstein, Vice President), 230 South LaSalle Street, Chicago, Illinois 60690:

1. *William J. Hank*, Sterling, Illinois; to acquire an additional 17.7 percent (totalling 36.27 percent) of the voting shares of First Sterling Bancorp, Inc., Sterling, Illinois, and thereby indirectly acquire First National Bank of Sterling, Sterling, Illinois.

D. Federal Reserve Bank of Kansas City (Thomas M. Hoenig, Vice

President), 925 Grand Avenue, Kansas City, Missouri 64198:

1. *Don R. Boyd*, Slater, Missouri; to acquire an additional 11.6 percent (totalling 28.4 percent) of the voting shares of Slater Bancshares, Inc., Slater, Missouri, parent of State Bank of Slater, Slater, Missouri.

2. *Sam W. Gilliam*, Slater, Missouri; to acquire an additional 10.8 percent (totalling 33.7 percent) of the voting shares of Slater Bancshares, Inc., Slater, Missouri, parent of State Bank of Slater, Slater, Missouri.

3. *Lawrence E. Hart*, Atchison, Kansas; to acquire an additional 9.03 percent (totalling 24.06 percent) of the voting shares of Valley Bancshares, Inc., Atchison, Kansas, and thereby indirectly acquire The Valley Bank, Atchison, Kansas.

4. *Martin T. Hart*, Denver, Colorado; to acquire an additional 9.03 percent (totalling 24.06 percent) of the voting shares of Valley Bancshares, Inc., Atchison, Kansas, and thereby indirectly acquire The Valley Bank, Atchison, Kansas.

E. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President), 400 South Akard Street, Dallas, Texas 75222:

1. *Laura I. Stewart*, Alamogordo, New Mexico; to acquire 8.17 percent of the voting shares of First Alamogordo Bancorp, Inc., Alamogordo, New Mexico, and thereby indirectly acquire First National Bank in Alamogordo, Alamogordo, New Mexico, and First National Bank of Ruidoso, Ruidoso, New Mexico.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26765 Filed 11-14-89; 8:45 am]

BILLING CODE 6210-01-M

Mercantile Bankshares Corp., et al.; Formations of; Acquisitions by; and Mergers of Bank Holding Companies

The companies listed in this notice have applied for the Board's approval under section 3 of the Bank Holding Company Act (12 U.S.C. 1842) and § 225.14 of the Board's Regulation Y (12 CFR 225.14) to become a bank holding company or to acquire a bank or bank holding company. The factors that are considered in acting on the applications are set forth in section 3(c) of the Act (12 U.S.C. 1842(c)).

Each application is available for immediate inspection at the Federal Reserve Bank indicated. Once the application has been accepted for processing, it will also be available for

inspection at the offices of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank or to the offices of the Board of Governors. Any comment on an application that requests a hearing must include a statement of why a written presentation would not suffice in lieu of a hearing, identifying specifically any questions of fact that are in dispute and summarizing the evidence that would be presented at a hearing.

Unless otherwise noted, comments regarding each of these applications must be received not later than December 6, 1989.

A. Federal Reserve Bank of Richmond (Lloyd W. Bostian, Jr., Vice President) 701 East Byrd Street, Richmond, Virginia 23261:

1. *Mercantile Bankshares Corporation*, Baltimore, Maryland; to acquire 100 percent of the voting shares of Baltimore Trust Company, Selbyville, Delaware.

B. Federal Reserve Bank of St. Louis (Randall C. Sumner, Vice President) 411 Locust Street, St. Louis, Missouri 63166:

1. *First National Bancshares in Newton, Inc. ESOP*, Newton, Illinois; to become a bank holding company by acquiring at least 68.9 percent of the voting shares of First National Bancshares in Newton, Inc., Newton, Illinois, and thereby indirectly acquire First National Bank in Newton, Newton, Illinois. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

2. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of First Financial Services, Inc. Brownsville, Tennessee, and thereby indirectly acquire First State Bank, Brownsville, Tennessee. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

3. *Union Planters Corporation*, Memphis, Tennessee; to acquire 100 percent of the voting shares of Security Bancshares, Inc., Paris, Tennessee, and thereby indirectly acquire Security Bank and Trust Company, Paris, Tennessee. The target bank engages only in the sale, as agent, of credit related insurance sold in connection with extensions of credit made by the target bank. It engages in no underwriting activities.

Board of Governors of the Federal Reserve System, November 8, 1989.

Jennifer J. Johnson,

Associate Secretary of the Board.

[FR Doc. 89-26766 Filed 11-14-89; 8:45 am]

BILLING CODE 6210-01-M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. 89N-0476]

Drug Export; OncoTICE™ BCG

AGENCY: Food and Drug Administration, NNS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Organon Teknika Corp. has filed an application requesting approval for the export of the biological product OncoTICE™ BCG, to The Netherlands.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8191.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the *Federal Register* within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Organon Teknika Corp., 100 Akzo Ave.,

Durham, NC 27704, has filed an application requesting approval for the export of the biological product OncoTICE™ BCG, to The Netherlands. The product OncoTICE™ BCG is intended for use as an adjunct in the treatment of primary carcinoma in situ and in prophylaxis of recurrent transitional cell carcinoma in situ. The completed application was received and filed in the Center for Biologics Evaluation and Research on October 2, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be sent in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: October 23, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-26854 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0477]

Drug Export; Ortho™ HIV-1 Recombinant ELISA Test System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Ortho Diagnostic Systems, Inc. has filed an application requesting approval for the export of the biological product ORTHO™ HIV-1 Recombinant ELISA Test System to Belgium.

ADDRESS: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD

20857, and to the contact person identified below. Any future inquiries concerning the export of human biological products under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Boyd Fogle, Jr., Center for Biologics Evaluation and Research (HFB-120), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8181.

SUPPLEMENTARY INFORMATION: The Drug Export Amendment Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **FEDERAL REGISTER** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Ortho Diagnostic Systems, Inc., Raritan, NJ 08869, has filed an application requesting approval for the export of the biological product ORTHO™ HIV-1 Recombinant ELISA Test System to Belgium ORTHO™ HIV-1 Recombinant ELISA Test System is a qualitative immunoassay for the detection of antibody to Human Immunodeficiency Virus Type 1 (HIV-1) in human serum or plasma. The application was received and filed in the Center for Biologics Evaluation and Research on September 27, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1989, and to provide an additional copy of the submission directly to the contact

person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated under 21 CFR 5.44.

Dated: October 31, 1989.

Thomas S. Bozzo,

Director, Office of Compliance, Center for Biologics Evaluation and Research.

[FR Doc. 89-26855 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89N-0479]

Drug Export; AK-Tate 1%* Ophthalmic Suspension (Prednisolone Acetate 1%) 5 ML and 10 ML Bottles

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that Norbrook America, Inc., has filed an application requesting approval for the export of the human drug Ak-Tate 1%* ophthalmic suspension (Prednisolone Acetate 1%) 5 milliliter (mL) and 10 mL bottles to Canada.

ADDRESSES: Relevant information on this application may be directed to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, and to the contact person identified below. Any future inquiries concerning the export of human drugs under the Drug Export Amendments Act of 1986 should also be directed to the contact person.

FOR FURTHER INFORMATION CONTACT: Mary F. Cooper, Division of Drug Labeling Compliance (HFD-313), Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301-295-8073.

SUPPLEMENTARY INFORMATION: The Drug Export Amendments Act of 1986 (section 802 of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 382)) provides that FDA may approve applications for the export of drugs that are not currently approved in the United States. The approval process is governed by section 802(b) of the act. Section 802(b)(3)(B) of the act sets forth the requirements that must be met in an application for approval. Section 802(b)(3)(C) of the act requires that the agency review the application within 30 days of its filing to determine whether

the requirements of section 802(b)(3)(B) have been satisfied. Section 802(b)(3)(A) of the act requires that the agency publish a notice in the **Federal Register** within 10 days of the filing of an application for export to facilitate public participation in its review of the application. To meet this requirement, the agency is providing notice that Norbrook America, Inc., 20510 Earlgate St., Walnut, CA 91789, has filed an application requesting approval for the export of the drug Ak-Tate 1%* ophthalmic suspension (Prednisolone Acetate 1%) 5 milliliter (mL) and 10 mL bottles, to Canada. The product is indicated for the treatment of steroid responsive inflammatory conditions of the palpebral and bulbar conjunctiva, cornea, and anterior segment of the globe, such as allergic conjunctivitis, acne rosacea, superficial punctate keratitis, herpes zoster keratitis, iritis, cyclitis, selected infective conjunctivitis when the inherent hazard of steroid use is accepted to obtain an advisable diminution in edema and inflammation, corneal injury from chemical or thermal burns, or penetration of foreign bodies. The application was received and filed in the Center for Drug Evaluation and Research on October 23, 1989, which shall be considered the filing date for purposes of the act.

Interested persons may submit relevant information on the application to the Dockets Management Branch (address above) in two copies (except that individuals may submit single copies) and identified with the docket number found in brackets in the heading of this document. These submissions may be seen in the Dockets Management Branch between 9 a.m. and 4 p.m., Monday through Friday.

The agency encourages any person who submits relevant information on the application to do so by November 27, 1989, and to provide an additional copy of the submission directly to the contact person identified above, to facilitate consideration of the information during the 30-day review period.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (sec. 802 (21 U.S.C. 382)) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Center for Drug Evaluation and Research (21 CFR 5.44).

Dated: November 2, 1989.

Sammie R. Young,

Deputy Director, Office of Compliance, Center for Drug Evaluation and Research.

[FR Doc. 89-26856 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0455]

T Cell Sciences, Inc.; Premarket Approval of Cellfree® Interleukin-2 Receptor Bead Assay Kit**AGENCY:** Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by T Cell Sciences, Inc., Cambridge, MA, for premarket approval, under the Medical Device Amendments of 1976, of the Cellfree® Interleukin-2 Receptor Bead Assay Kit. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 6, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, Md 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On June 21, 1988, T Cell Sciences, Inc., Cambridge, MA 02139, submitted to CDRH an application for premarket approval of the Cellfree® Interleukin-2 Receptor Bead Assay Kit. The Cellfree® Interleukin Bead Assay Kit is a device for assay of soluble human Interleukin-2 receptor (IL-2R). It is an enzyme immunometric assay for the quantitative measurement of IL-2R levels in human serum. The Cellfree® Interleukin-2 Receptor Bead Assay Kit is indicated for use as an aid in evaluating and monitoring response to treatment in hairy cell leukemia patients in whom elevated levels of serum IL-2R have been confirmed.

On November 21, 1988 the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 6, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address

above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FSA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), (520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,
Acting Deputy Director, Center for Devices
and Radiological Health.

[FR Doc. 89-26709 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-0-M

[Docket No. 89M-0356]

Newlensco; Premarket Approval of Classic Series™ Models MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses**AGENCY:** Food and Drug Administration.
ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Newlensco, Monrovia, CA, for premarket approval under the Medical Device Amendments of 1976 of the Classic Series™ MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of August 17, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On April 20, 1988, Newlensco, Monrovia, CA 91016, submitted to CDRH an application for premarket approval of the Classic Series™ Models MP-1010, MP-1011, MP-1110, MP-1111, MP-1210, and MP-1410 Posterior Chamber Intraocular Lenses. The devices are indicated for use in the visual correction of aphakia in patients 60 years of age or older, who are undergoing a primary lens implantation, in either the ciliary sulcus or capsular bag, following an extracapsular cataract extraction. The devices are available in a range of powers from 13 diopters (D) through 30 D in 0.5 increments.

On October 19, 1988, the Ophthalmic Devices Panel, an FDA advisory

committee, reviewed and recommended approval of the application. On August 17, 1989, CDRH approved the application by a letter to the applicant from the Acting Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 21 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360 e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26710 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0418]

DGR Inc.; Premarket Approval of Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by DGR, Inc., St. Petersburg, FL, for premarket approval under the Medical Device Amendments of 1976 (the amendments), of the Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses. After reviewing the recommendation of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 22, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Brogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On October 7, 1988, DGR, Inc., St. Petersburg, FL 33716, submitted to CDRH an application for premarket approval of the Models PA11-0, PA11-1, PA11-2, PA11-4, PL11-0, PL11-1, PL11-2, and PL11-4, Posterior Chamber Intraocular Lenses. The devices are indicated for primary implantation for

the visual correction of aphakia in patients 60 years of age or older where a cataractous lens has been removed by extracapsular cataract extraction methods. The devices are available in a range of powers from 12 diopters (D) through 30 D in 0.5-D increments.

On April 13, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 22, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26711 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0457]

Oncogene Science, Inc.; Premarket Approval of OSI® TransProbe-1™

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Oncogene Science, Inc., Manhasset, NY, for premarket approval, under the Medical Device Amendments of 1976, of the OSI® TransProbe-1™. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 3, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On June 21, 1988, Oncogene Science, Inc., Manhasset, NY 11030, submitted to CDRH an application for premarket approval of the OSI® TransProbe-1™. The OSI® TransProbe-1™ is a device for

detection of Philadelphia translocation gene deoxyribonucleic acid (DNA) in human leukemia cells. The OSI® TransProbe-1™ kit is an in vitro diagnostic DNA probe device to detect the presence of the bcr 210 Philadelphia (Ph⁺) translocation in bone marrow or peripheral blood cells as an aid in the diagnosis of chronic myelogenous leukemia (CML).

On November 21, 1988, the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 3, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the Federal Register.

If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26712 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0456]

Oncor, Inc.; Premarket Approval of Oncor B/T Gene Rearrangement Test

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Oncor, Inc., Gaithersburg, MD, for premarket approval, under the Medical Device Amendments of 1976, of the Oncor B/T Gene Rearrangement Test. After reviewing the recommendation of the Hematology and Pathology Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the application, by letter of October 10, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1096.

SUPPLEMENTARY INFORMATION: On March 1, 1988, Oncor, Inc., Gaithersburg, MD 20877, submitted to CDRH an

application for premarket approval of the Oncor B/T Gene Rearrangement Test. The Oncor B/T Gene Rearrangement Test is a B- and T-cell gene rearrangement test. It detects clonal populations of lymphoid cells in mixed cell populations from tissues and body fluids to aid in the differential diagnosis of lymphocytic leukemia and lymphoid malignancies from other neoplasms. The test also provides information about the B-cell and T-cell lineage of the neoplasm which can aid in the selection of appropriate therapy. In addition, the test identifies rearranged genes (specific tumor markers), so that a physician can qualitatively examine a clonal population during relapse to determine if the same population is present as an aid in evaluation of therapeutic effectiveness.

On November 22, 1988, the Hematology and Pathology Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 10, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Joseph L. Hackett, (HFZ-440), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of

material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-26771 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0684]

N&N Contact Lens International, Inc.; Premarket Approval of Softouch (Ocuflon C) Soft (Hydrophilic) Contact Lenses and Softouch Toric (Ocuflon C) Soft (Hydrophilic) Contact Lenses

AGENCY: Food and Drug Administration
HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by N&N Contact Lens International, Inc., Lynnwood, WA, for premarket approval, under the Medical Device Amendments of 1976, of the SOFTOUCH (ocuflon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocuflon C) Soft (Hydrophilic) Contact Lenses for daily wear. The lenses are to be manufactured under an agreement with Optical Plastics Research, Inc., Concord, CA, which has authorized N&N Contact Lens International, Inc., to incorporate information contained in its approved premarket approval application for the O.P.R.-55 (ocuflon C) Hydrophilic

Contact Lens (Spherical and Toric). FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of October 3, 1989, of the approval of the application.

DATE: Petitions for administrative review by December 15, 1989.

ADDRESS: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, room 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: David M. Whipple, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1080.

SUPPLEMENTARY INFORMATION: On July 25, 1989, N&N Contact Lens International, Inc., Lynnwood, WA, 98046, submitted to CDRH an application for premarket approval of the SOFTOUCH (ocuflon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocuflon C) Soft (Hydrophilic) Contact Lenses for daily wear. The SOFTOUCH (ocuflon C) Soft (Hydrophilic) Contact Lenses are indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that have hyperopia (farsightedness) and myopia (nearsightedness). The lenses may be worn by persons who may exhibit astigmatism of 1.25 diopters (D) or less that does not interfere with visual acuity. The lenses range in spherical powers from -20.00 D to +20.00 D. The SOFTOUCH TORIC (ocuflon C) Soft (Hydrophilic) Contact Lenses are indicated for the correction of visual acuity in not-aphakic persons with nondiseased eyes that have hyperopia, myopia, and exhibit astigmatism of 7.00 D or less. These lenses range in spherical powers from -20.00 D to +20.00 D and cylindrical powers from plano to 7.00 D. The lenses are to be disinfected using a chemical lens care system. The application includes authorization from Optical Plastics Research, Inc., Concord, CA 94520, to incorporate information contained in its approved premarket approval application for the O.P.R.-55 (ocuflon C) Hydrophilic Contact Lens (Spherical and Toric).

On October 3, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets

Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact David M. Whipple (HFZ-460), address above. The labeling of the SOFTOUCH (ocufilcon C) Soft (Hydrophilic) Contact Lenses and SOFTOUCH TORIC (ocufilcon C) Soft (Hydrophilic) Contact Lenses states that the lens is to be used only with certain solutions for disinfection and other purposes. The restrictive labeling informs new users that they must avoid using certain products, such as solutions intended for use with hard contact lenses only.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) 21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26772 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0449]

Labthermics Technologies, Inc.; Premarket Approval of the Sonotherm® 1000 Ultrasound Hyperthermia System

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Labthermics Technologies, Inc., Champaign, IL, for premarket approval, under the Medical Device Amendments of 1976, of the Sonotherm® 1000 Ultrasound Hyperthermia System. After reviewing the recommendation of the Radiologic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant, by letter of September 29, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Adrienne Galdi, Center for Devices and Radiological Health (HFZ-430), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1050.

SUPPLEMENTARY INFORMATION: On August 8, 1988, Labthermics Technologies, Inc., 701 Devonshire Dr., Champaign, IL 61820, submitted to CDRH an application for premarket approval of the Sonotherm® 1000 Ultrasound Hyperthermia System. The device is an external ultrasound hyperthermia device. The Sonotherm® 1000 Ultrasound Hyperthermia System is indicated for combined use with radiotherapy in the palliative management of certain solid superficial

or up to 8 centimeters deep malignant tumors (i.e., epidermal (squamous cell, nonsquamous cell, large cell, infiltrating ductal, transitional cell, and adenocarcinoma), sarcoma, or schwannoma) that are either candidates for an initial course of radiotherapy or are recurrent or progressive despite conventional therapy.

On July 10, 1989, the Radiologic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On September 29, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Adrienne Galdi (HFZ-430), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to grant or deny the petition and will publish a notice of its decision in the *Federal Register*. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the

Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 5, 1989.

John C. Villforth,

Director, Center for Devices and Radiological Health.

[FR Doc. 89-26713 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

[Docket No. 89M-0458]

Surgidev Corp.; Premarket Approval of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20-20A0, BUV20-20A4, UV20-20A4, BUV20-24A4, and LRUV20-24A4

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing its approval of the application by Surgidev Corp., Goleta, CA, for premarket approval under the Medical Device Amendments of 1976 (the amendments), of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20-20A0, BUV20-20A4, UV20-20A4, BUV20-24A4, and LRUV20-24A4. After reviewing the recommendations of the Ophthalmic Devices Panel, FDA's Center for Devices and Radiological Health (CDRH) notified the applicant by letter of October 17, 1989, of the approval of the application.

DATES: Petitions for administrative review by December 15, 1989.

ADDRESSES: Written requests for copies of the summary of safety and effectiveness data and petitions for administrative review to the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857.

FOR FURTHER INFORMATION CONTACT: Nancy C. Grogdon, Center for Devices and Radiological Health (HFZ-460), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20850, 301-427-1212.

SUPPLEMENTARY INFORMATION: On September 29, 1988, Surgidev Corp., Goleta, CA 93117, submitted to CDRH an application for premarket approval of the Ultraviolet-Absorbing Posterior Chamber Intraocular Lenses Models BUV20-20A0, BUV20-20A4, UV20-20A4, BUV20-24A4, and LRUV20-24A4. The devices are indicated for use in the visual correction of aphakia in patients over 60 years of age or older in whom a cataractous lens has been removed by extracapsular extraction. The lenses are intended to be placed in either the ciliary sulcus or capsular bag. The devices are available in a range of powers from 4 diopters (D) through 34 D in 0.5-D increments.

On April 13, 1989, the Ophthalmic Devices Panel, an FDA advisory committee, reviewed and recommended approval of the application. On October 17, 1989, CDRH approved the application by a letter to the applicant from the Director of the Office of Device Evaluation, CDRH.

Under the amendments, intraocular lenses are regulated as class III devices (premarket approval). A summary of the safety and effectiveness data on which CDRH based its approval is on file in the Dockets Management Branch (address above) and is available from that office upon written request. Requests should be identified with the name of the device and the docket number found in brackets in the heading of this document.

A copy of all approved labeling is available for public inspection at CDRH—contact Nancy C. Brogdon (HFZ-460), address above.

Opportunity for Administrative Review

Section 515(d)(3) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 360e(d)(3)) authorizes any interested person to petition, under section 515(g) of the act (21 U.S.C. 360e(g)), for administrative review of CDRH's decision to approve this application. A petitioner may request either a formal hearing under part 12 (21 CFR part 12) of FDA's administrative practices and procedures regulations or a review of the application and CDRH's action by an independent advisory committee of experts. A petition is to be in the form of a petition for reconsideration under § 10.33(b) (21 CFR 10.33(b)). A petitioner shall identify the form of review requested (hearing or independent advisory committee) and shall submit with the petition supporting data and information showing that there is a genuine and substantial issue of material fact for resolution through administrative review. After reviewing the petition, FDA will decide whether to

grant or deny the petition and will publish a notice of its decision in the **Federal Register**. If FDA grants the petition, the notice will state the issue to be reviewed, the form of review to be used, the persons who may participate in the review, the time and place where the review will occur, and other details.

Petitioners may, at any time on or before December 15, 1989, file with the Dockets Management Branch (address above) two copies of each petition and supporting data and information, identified with the name of the device and the docket number found in brackets in the heading of this document. Received petitions may be seen in the office above between 9 a.m. and 4 p.m., Monday through Friday.

This notice is issued under the Federal Food, Drug, and Cosmetic Act (secs. 515(d), 520(h) (21 U.S.C. 360e(d), 360j(h))) and under authority delegated to the Commissioner of Food and Drugs (21 CFR 5.10) and redelegated to the Director, Center for Devices and Radiological Health (21 CFR 5.53).

Dated: November 3, 1989.

Walter E. Gundaker,

Acting Deputy Director, Center for Devices and Radiological Health.

[FR Doc. 89-26714 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

Advisory Committees; Meetings

AGENCY: Food and Drug Administration.

ACTION: Notice.

SUMMARY: This notice announces forthcoming meetings of public advisory committees of the Food and Drug Administration (FDA). This notice also summarizes the procedures for the meetings and methods by which interested persons may participate in open public hearings before FDA's advisory committees.

MEETINGS: The following advisory committee meetings are announced.

Psychopharmacologic Drugs Advisory Committee

Date, Time, and Place

December 1, 1989, 9 a.m., Conference Rms. D and E, Parklawn Bldg., 5600 Fishers Lane, Rockville, MD.

Type of Meeting and Contact Person

Open public hearing, 9 a.m. to 10 a.m., unless public participation does not last that long; open committee discussion, 10 a.m. to 4 p.m.; Michael A. Bernstein, Center for Drug Evaluation and Research (HFD-120), Food and Drug

Administration, 5600 Fishers Lane,
Rockville, MD 20857, 301-443-4020.

General Function of the Committee

The committee reviews and evaluates available data concerning the safety and effectiveness of currently marketed and investigational human drug products for use in the practice of psychiatry and related fields.

Agenda—Open Public Hearing

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the committee contact person.

Open Committee Discussion

The committee will discuss data relevant to a claim for the safety and effectiveness of clomipramine in the treatment of obsessive compulsive disorder.

Microbiology Devices Panel

Date, Time, and Place

December 8, 1989, 1 p.m., Conference
Rm. L, Parklawn Bldg., 5600 Fishers
Lane, Rockville, MD.

Type of Meeting and Contact Person

This meeting will take place in the form of a telephone conference call. A speaker phone will be provided in the conference room to allow public participation in the meeting. Open public hearing, 1 p.m. to 2 p.m., unless public participation does not last that long; open committee discussion, 2 p.m. to 3 p.m.; Joseph L. Hackett, Center for Devices and Radiological Health (HFZ-440), Food and Drug Administration, 1390 Piccard Dr., Rockville, MD 20910, 301-427-1096.

General Function of the Committee

The committee reviews and evaluates available data on the safety and effectiveness of devices and makes recommendations for their regulation.

Agenda—Open Public Hearing

Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Those desiring to make formal presentations should notify the contact person before December 8, 1989, and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time required to make their comments.

Open Committee Discussion

The committee will discuss a premarket approval application for a device to detect Hepatitis B e and Hepatitis B e antibody (anti-HBe).

FDA public advisory committee meetings may have as many as four separable portions: (1) An open public hearing, (2) and open committee discussion, (3) a closed presentation of data, and (4) a closed committee deliberation. Every advisory committee meeting shall have an open public hearing portion. Whether or not it also includes any of the other three portions will depend upon the specific meeting involved. There are no closed portions for the meetings announced in this notice. The dates and times reserved for the open portions of each committee meeting are listed above.

The open public hearing portion of each meeting shall be at least 1 hour long unless public participation does not last that long. It is emphasized, however, that the 1 hour time limit for an open public hearing represents a minimum rather than a maximum time for public participation, and an open public hearing may last for whatever longer period the committee chairperson determines will facilitate the committee's work.

Public hearings are subject to FDA's guideline (subpart C of 21 CFR part 10) concerning the policy and procedures for electronic media coverage of FDA's public administrative proceedings, including hearings before public advisory committees under 21 CFR part 14. Under 21 CFR 10.205, representatives of the electronic media may be permitted, subject to certain limitations, to videotape, film, or otherwise record FDA's public administrative proceedings, including presentations by participants.

Meetings of advisory committees shall be conducted, insofar as is practical, in accordance with the agenda published in this Federal Register notice. Changes in the agenda will be announced at the beginning of the open portion of a meeting.

Any interested person who wishes to be assured of the right to make an oral presentation at the open public hearing portion of a meeting shall inform the contact person listed above, either orally or in writing, prior to the meeting. Any person attending the hearing who does not in advance of the meeting request an opportunity to speak will be allowed to make an oral presentation at the hearing's conclusion, if time permits, at the chairperson's discretion.

Persons interested in specific agenda items to be discussed in open session

may ascertain from the contact person the approximate time of discussion.

Details on the agenda, questions to be addressed by the committee, and a current list of committee members are available from the contact person before and after the meeting. Transcripts of the open portion of the meeting will be available from the Freedom of Information Office (HFI-35), Food and Drug Administration, Rm. 12A-16, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, at a cost of 10 cents per page. The transcript may be viewed at the Dockets Management Branch (HFA-305), Food and Drug Administration, Rm. 4-62, 5600 Fishers Lane, Rockville, MD 20857, approximately 15 working days after the meeting, between the hours of 9 a.m. and 4 p.m., Monday through Friday. Summary minutes of the open portion of the meeting will be available from the Freedom of Information Office (address above) beginning approximately 90 days after the meeting.

This notice is issued under section 10(a) (1) and (2) of the Federal Advisory Committee Act (5 U.S.C. App. I), and FDA's regulations (21 CFR part 14) on advisory committees.

Dated: November 7, 1989.

Ronald G. Chesemore,

*Acting Associate Commissioner for
Regulatory Affairs.*

[FR Doc. 89-26773 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

Consumer Participation; Open Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing the following district consumer exchange meeting: Newark District Office, chaired by Matthew H. Lewis, District Director. The topic to be discussed is food labeling.

DATE: Thursday, November 16, 1989, 10 a.m. to 12 m.

ADDRESS: Cook College, Rutgers—The State University, Rm. 114, Thompson Hall, New Brunswick, NJ 08903.

FOR FURTHER INFORMATION CONTACT: Joan G. Lytle, Consumer Affairs Officer, Food and Drug Administration, 61 Main St., West Orange, NJ 07052, 201-645-6365.

SUPPLEMENTARY INFORMATION: The purpose of this meeting is to encourage dialogue between consumers and FDA officials, to identify and set priorities for current and future health concerns, to

enhance relationships between local consumers and FDA's district offices, and to contribute to the agency's policymaking decisions on vital issues.

Dated: November 7, 1989.

Ronald G. Chesemore,

Acting Associate Commissioner for
Regulatory Affairs.

[FR Doc. 89-26774 Filed 11-14-89; 8:45 am]

BILLING CODE 4160-01-M

Health Care Financing Administration

Statement of Organization, Functions, and Delegations of Authority

Part F. of the Statement of Organization, Functions, and Delegations of Authority for the Department of Health and Human Services, Health Care Financing Administration (HCFA), (Federal Register, Vol. 53, No. 45, pg. 7403, dated March 9, 1988) is amended to reflect the addition of responsibility for the Office of Inspector General (OIG) audit resolution functions to the Management Planning and Analysis Staff (MPAS), Office of Budget and Administration (OBA), in the Office of the Associate Administrator for Management.

The specific amendment to Part F. is described below:

- Section FH.20.A.4, Management Planning and Analysis Staff (FHA-1) is amended by deleting the functional statement in its entirety and replacing it with the following functional statement:

4. Management Planning and Analysis Staff (FHA-1)

Assists and advises the Director, Office of Budget and Administration (OBA) and other OBA managers in management analysis activities. Provides Agency-wide services, policy, planning, and control programs including: workplanning, management analysis, quality/productivity improvement, Privacy Act responsibilities, the internal control program, Office of Inspector General (OIG) audit resolution functions, advisory and assistance services certification, contracting out of commercial and industrial activities, the administrative issuances system, and memoranda of understanding and interagency agreements. Develops HCFA Policy in these areas and assures the implementation of these policies throughout HCFA. Conducts special studies and analyses concerning Agency-wide and cross-cutting OBA issues and other broad based administrative issues.

Dated: November 3, 1989.

Robert A. Streimer,
Acting Associate Administrator for
Management.

[FR Doc. 89-26823 Filed 11-14-89 8:45 am]

BILLING CODE 4120-01-M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA-060-00-5440-10-ZBBB]

Proposed Right-of-Way and Land Exchange for Proposed Eagle Mountain Mine Waste Disposal Facility

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: Notice is hereby given that the Bureau of Land Management (BLM) and the County of Riverside will prepare a joint Federal-County Environmental Impact Report/Statement (EIR/EIS) for a proposed right-of-way and land exchange for Mine Reclamation Corporation's (MRC) proposed waste disposal facility at the Eagle Mountain Mine.

MRC has proposed to utilize Kaiser Steel Resources, Inc.'s (KSR) Eagle Mountain Mine site in Riverside County, California, and an associated railroad spur for a Class III waste disposal facility. The site would also be used for the storage of recyclable materials, rail and equipment maintenance, landfill gas recovery and utilization, flare/energy recovery, leachate processing, wastewater treatment, the continuance and/or expansion of the existing residential and commercial land uses, and the expansion of the Return-to-Custody facility (California Department of Corrections).

DATES: For Scoping Meetings and Comments: Public scoping meetings will be held on the following dates: 7 p.m. on Wednesday, December 6, 1989, at Lake Tamarisk Recreation Center, 26251 Parkview Dr., Desert Center, CA 92239 (619-227-3203); 7 p.m. Thursday, December 7, 1989, at City Hall Palm Desert, 73510 Fred Waring Dr., Palm Desert, CA 92260 (619-346-0611); and 9:00 a.m. Monday, December 11, 1989, at Southern California Association of Governments, 818 W. 7th St., 12th Floor, Conference Room, Los Angeles, CA 90017 (213-236-1800).

Comments are being requested to help identify significant issues or concerns related to the proposed action, to determine the scope of the issues (including alternatives) that need to be analyzed, and to identify and eliminate

from detailed study the issues which are not significant. All comments recommending that the EIR/EIS address specific environmental issues should contain supporting documentation and rational. Written comments must be filed on or before December 20, 1989, reference BLM CA-25594, and should be addressed to Marianne Wetzel, BLM, Palm Springs-South Coast Resource Area, 400 S. Farrell Dr., Suite B-205, Palm Springs, CA 92262.

SUPPLEMENTARY INFORMATION: The project site is the Eagle Mountain inactive, open iron mine located in the Eagle Mountains in eastern Riverside County. The site is owned by KSR and occupies approximately 9,800 acres. The site is located approximately 10 miles north of Desert Center, approximately 170 miles east of Los Angeles, and approximately 50 miles west of the Arizona border.

MRC has leased approximately 8,300 acres of the Eagle Mountain Mine and the 52-mile private railroad from KSR for a period of 100 years. MRC proposes to use approximately 5,300 acres of the leased area as a regional site for retrievable storage and disposal of nonhazardous municipal solid waste generated in Southern California. Of the 5,300 acres, about 2,250 acres would be for the landfill itself. Before refuse is delivered to the project site, it will be processed through transfer stations which will be located as near as practicable to the sources of refuse production. At the transfer stations, which will not be owned or operated by MRC, refuse will be screened for hazardous substances, sorted for recyclables, compacted, and loaded into closed shipping containers. MRC plans to have the landfill operating in 1991.

Initially, MRC expects to receive 4,000 tons of waste per day. This waste volume is expected to increase to a maximum of 20,000 tons per day, with 16,000 tons per day being transported by rail and a maximum of 4,000 tons per day being transported by road. The waste would be placed in the existing, open mining pits at Eagle Mountain Mine. The estimated capacity of the proposed landfill is in excess of 500 million tons and have a minimum life of 100 years.

The project would be developed to meet stringent state and federal regulations for municipal solid waste landfills. The entire area underlying the refuse would be lined with on-site clay-like materials. At no time would refuse be placed upon or against unlined native material. Other pollution control systems to be constructed would include: ground water monitoring wells,

leachate collection and treatment systems, drainage systems, and landfill gas control and recovery systems.

A portion of the proposed project area including a portion of the railroad was authorized by the BLM for mining use only by KSR. Therefore, owing to the change of use, KSR is applying for the conversion of a legislatively approved railroad right-of-way to a right-of-way grant pursuant to the Federal Land Policy and Management Act, for rail and road access to the site. Approximately 33 miles of the rail system which runs from Ferrum to the mine site is located on public land.

An exchange of land between the BLM and KSR would also be necessary to place the entire landfill site under private ownership and thereby, would allow KSR to lease the land to MRC for the landfill use. In the exchange, BLM would be acquiring lands which would benefit their biological, cultural, scenic, and other resource management programs. The exchange would involve approximately 2,800 acres of public land, much of which is under unpatented mining claims and mill site claims to KSR.

Potential issues include, but are not limited to, air quality, social and economic impacts, ground and surface water quality, desert tortoise, bighorn sheep, cultural or historical resources, and recreation and wilderness values.

FOR ADDITIONAL INFORMATION CONTACT: Marianne Wetzel, Palm Springs-South Coast Resource Area, 400 S. Farrell Drive, Suite B-205, Palm Springs, California 92262.

Dated: November 8, 1989.

Ron Yokota,

Acting District Manager, California Desert District.

[FR Doc. 89-26790 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-40-M

[ID-943-90-4214-11; I-2037]

Proposed Continuation of Withdrawal; Idaho

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: The U.S. Forest Service, Department of Agriculture, proposes that a withdrawal of 39.31 acres for the Cunningham Bar Recreation Area in the Salmon National Forest continue for an additional 20 years. The land is now being used as a recreation site. The land would remain closed to surface entry and mining. The land has been and will remain closed to mineral leasing by an overlapping withdrawal.

EFFECTIVE DATE: February 13, 1990.

FOR FURTHER INFORMATION CONTACT: Sally Carpenter, Idaho State Office, BLM, 3380 Americana Terrace, Boise, Idaho 83706, 208-334-1720.

The U.S. Forest Service proposes that the existing land withdrawal made by Public Land Order No. 4624, be continued for a period of 20 years pursuant to Section 204 of the Federal Land Policy and Management Act of 1976, 90 Stat. 2751; 43 U.S.C. 1714. The land is described as follows:

Boise Meridian

T. 23 N., R. 14 E.

sec. 1, lots 3, 7, and that portion of lot 4 east of the centerline of Wheat Creek.

The area described contains 39.31 acres in Idaho County.

The withdrawal is essential for protection of substantial capital improvements on the Recreation Site. The withdrawal closed the described land to surface entry and mining but not to mineral leasing. However, the land has been and will remain closed to mineral leasing by an overlapping withdrawal. No change in the segregative effect or use of the land is proposed by this action.

For a period of 90 days from the date of publication of this notice, all persons who wish to submit comments in connection with the proposed withdrawal continuation may present their views in writing to the Idaho State Director at the above address.

The authorized officer of the Bureau of Land Management will undertake such investigations as necessary to determine the existing and potential demand for the land and its resources. A report will also be prepared for consideration by the Secretary of the Interior, the President, and Congress, who will determine whether or not the withdrawal will be continued; and if so, for how long. The final determination of the withdrawal will be published in the Federal Register. The existing withdrawal will continue until such final determination is made.

Dated: November 3, 1989.

William E. Ireland,

Chief, Realty Operations Section.

[FR Doc. 89-26789 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-66-M

National Park Service

National Capital Region; Public Workshop

Notice is hereby given in accordance with the Federal Advisory Committee Act that a public workshop will be hosted by the National Park Service,

Saturday, November 18, from 9:30 a.m. to 12 noon, at the Jefferson High School in Shennandoah Junction, West Virginia, located approximately 5 miles north of Charles Town off Route 9. The purpose of the meeting is to present alternatives on the special park boundary study as authorized by Congress. This workshop is a follow-up to the March 11, 1989 workshop held to gather ideas on the special park boundary study.

This study of lands adjacent to the park is to consist of three (3) parts; the first is to focus on protection alternatives for the largely undeveloped lands comprising School House Ridge just west of the National Park; the second is to focus on protection alternatives for largely undeveloped lands in the down river view of the Potomac from Jefferson Rock located in the Harpers Ferry National Historical Park; and the third is to focus on the remaining largely undeveloped lands containing outstanding cultural or scenic lands that are integral to the telling of the park's story or maintaining its setting.

The number of acres involved are approximately 1200 acres in Jefferson County, West Virginia; 100 acres in Washington County, Maryland and; 100 acres in Loudoun County, Virginia.

The study excludes developed lands in and around the towns of Harpers Ferry and Boliver, West Virginia and Sandy Hook, Maryland.

There will be a fourteen (14) day comment period following the workshop. Comments may be sent to the following address: Superintendent Donald Campbell, Harpers Ferry National Historical Park, Harpers Ferry, West Virginia 25425.

FOR FURTHER INFORMATION CONTACT: Resource Manager Bill Hebb at (304) 535-6371 Ext. 6224.

Dated: November 6, 1989.

Robert Stanton,

Regional Director, National Capital Region.

[FR Doc. 89-26803 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-70-M

Subsistence Resource Commission Meeting

AGENCY: National Park Service, Interior.

ACTION: Subsistence Resource Commission meeting.

SUMMARY: The Superintendent of Wrangell-St. Elias National Park and Preserve and the Chairperson of the Wrangell-St. Elias National Park Subsistence Resource Commission announce a forthcoming meeting of the

Wrangell-St. Elias National Park Subsistence Resource Commission.

The following agenda items will be discussed:

- (1) Introduction of new commission members and guests.
- (2) Review of minutes from last meeting.
- (3) Old business:
 - a. Draft recommendations for Subsistence Hunting Plan.
 - b. Resident zone considerations.
- (4) New business—hunting concerns.
- (5) Notice of upcoming chairmen's meeting.

DATE: The meeting will begin in Northway on December 4, 1989 at 1:00 p.m. and conclude at 4:00 p.m. The meeting will continue in Glennallen on December 5, 1989 at 9:30 a.m. and conclude that afternoon.

ADDRESS: The meeting will be held at the Village Community Hall in Northway, Alaska and at the Wrangell-St. Elias National Park and Preserve administrative office in Glennallen, Alaska.

FOR FURTHER INFORMATION CONTACT: Richard Martin, Superintendent, Wrangell-St. Elias National Park and Preserve, Box 29, Glennallen, Alaska 99588.

SUPPLEMENTARY INFORMATION: The Subsistence Resource Commission is authorized under Title VIII, Section 808, of the Alaska National Interest Lands Conservation Act, Public Law 96-487, and operates in accordance with the provisions of the Federal Advisory Committees Act.

David B. Ames,
Acting Regional Director.

[FR Doc. 89-26804 Filed 11-14-89; 8:45 am]

BILLING CODE 4310-70-M

INTERNATIONAL TRADE COMMISSION

[Inv. No. 337-TA-292]

Certain Methods of Making Carbonated Candy Products; Zeta Carbonated Candy/Bubble Gum Product

AGENCY: U.S. International Trade Commission.

ACTION: Notice.

SUMMARY: In the matter of certain methods of making carbonated candy products; Notice of Commission Decision not to review an Initial Determination Rejecting as a matter of Law respondent Zeta's Defense That Complainants' Failure to Produce a Carbonated Candy/Bubble Gum

Mixture Exempts From Commission Jurisdiction Zeta's Carbonated Candy/ Bubble Gum Product.

Notice is hereby given that the U.S. International Trade Commission has determined not to review an initial determination (ID) (Order No. 15) issued by the presiding administrative law judge (ALJ) rejecting as a matter of law respondents' defense that the Commission lacks jurisdiction over respondent's allegedly infringing product because complainant does not use its patented process to produce the identical product.

ADDRESS: Copies of the ID and all other nonconfidential documents filed in connection with this investigation are available for public inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 500 E Street, SW., Washington, DC 20436, telephone 202-252-1000.

FOR FURTHER INFORMATION CONTACT: Frances Marshall, Esq., Office of the General Counsel, U.S. International Trade Commission, 500 E. Street, SW., Washington, DC 20436, telephone 202-252-1089.

Hearing-impaired individuals are advised that information about this matter can be obtained by contacting the Commission's TDD terminal, 202-252-1810.

SUPPLEMENTARY INFORMATION: On July 31, 1989, complainants moved the ALJ for a partial summary determination that the Commission as a matter of law has jurisdiction to prevent the import and sale by respondents of a product containing both carbonated candy and bubble gum. Respondents had asserted that complainants' failure to produce a product containing both carbonated candy and bubble gum should exempt respondents' carbonated candy and bubble gum mixture from the Commission's jurisdiction. On August 18, 1989, the ALJ issued an ID granting complainants' motion to the extent that he rejected as a matter of law respondents' defense that the Commission lacks jurisdiction over the mixed carbonated candy product.

This action is taken under the authority of section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) and section 210.53 of the Commission's Interim Rules of Practice and Procedure ((53 FR 33070) (Aug. 29, 1988)).

By Order of the Commission.

Issued: November 8, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-26800 Filed 11-14-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigation No. 701-TA-301; Preliminary]

Plastic Tubing Corrugators From Canada

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation and scheduling of a conference to be held in connection with the investigation.

SUMMARY: The Commission hereby gives notice of the institution of preliminary countervailing duty investigation No. 701-TA-301 (Preliminary) under section 703(a) of the Tariff Act of 1930 (19 U.S.C. 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Canada of plastic tubing corrugators,¹ provided for in subheadings 8477.30.00 and 8477.40.00 of the Harmonized Tariff Schedule of the United States (previously reported under items 678.3535 and 678.3545 of the former Tariff Schedules of the United States), that are alleged to be subsidized by the Government of Canada. As provided in section 703(a), the Commission must complete preliminary countervailing duty investigations in 45 days, or in this case by December 22, 1989.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, as amended by 53 FR 33039 (Aug. 29, 1988) and 54 FR 5220 (Feb. 2, 1989)), and part 201, subparts A through E (19 CFR part 201).

EFFECTIVE DATE: November 7, 1989.

FOR FURTHER INFORMATION CONTACT: Larry E. Reavis (202-252-1185), Office of Investigations, U.S. International Trade Commission, 500 E Street SW., Washington, DC 20436. Hearing-impaired individuals are advised that information on this matter can be obtained by contacting the Commission's TDD terminal on 202-252-

¹ For purposes of this investigation, "plastic tubing corrugators" (PTCs) refers to all machines and apparatus therefor (including mold sets, dies, and perforators) designed to manufacture continuous lengths of corrugated plastic tubing. Such goods are described for tariff classification purposes as blow-molding machines (HTS subheading 8477.30.00) and vacuum-molding machines and other thermoforming machines (HTS subheading 8477.40.00), all the foregoing for working rubber or plastics or for the manufacture of products from these materials.

1810. Persons with mobility impairments who will need special assistance in gaining access to the Commission should contact the Office of the Secretary at 202-252-1000.

SUPPLEMENTARY INFORMATION:

Background

This investigation is being instituted in response to a petition filed on November 7, 1989, by Cullom Machine Tool & Die, Inc., Cleveland, TN.

Participation in the Investigation

Persons wishing to participate in the investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided in § 201.11 of the Commission's rules (19 CFR 201.11), not later than seven (7) days after publication of this notice in the *Federal Register*. Any entry of appearance filed after this date will be referred to the Chairman, who will determine whether to accept the late entry for good cause shown by the person desiring to file the entry.

Public Service List

Pursuant to § 201.11(d) of the Commission's rules (19 CFR 201.11(d)), the Secretary will prepare a public service list containing the names and addresses of all persons, or their representatives, who are parties to this investigation upon the expiration of the period for filing entries of appearance. In accordance with § 201.16(c) and 207.3 of the rules (19 CFR 201.16(c) and 207.3), each public document filed by a party to the investigation must be served on all other parties to the investigation (as identified by the public service list), and a certificate of service must accompany the document. The Secretary will not accept a document for filing without a certificate of service.

Limited Disclosure of Business Proprietary Information Under a Protective Order and Business Proprietary Information Service List

Pursuant to section 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended), the Secretary will make available business proprietary information gathered in this preliminary investigation to authorized applicants under a protective order, provided that the application be made not later than seven (7) days after the publication of this notice in the *Federal Register*. A separate service list will be maintained by the Secretary for those parties authorized to receive business proprietary information under a protective order. The Secretary will not accept any submission by parties containing business proprietary

information without a certificate of service indicating that it has been served on all the parties that are authorized to receive such information under a protective order.

Conference

The Commission's Director of Operations has scheduled a conference in connection with this investigation for 9:30 a.m. on November 28, 1989, at the U.S. International Trade Commission Building, 500 E Street SW., Washington, DC. Parties wishing to participate in the conference should contact Larry Reavis (202-252-1185) not later than November 27 to arrange for their appearance. Parties in support of the imposition of countervailing duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

Written Submissions

Any person may submit to the Commission on or before December 1, 1989, a written brief containing information and arguments pertinent to the subject matter of the investigation, as provided in § 207.15 of the Commission's rules (19 CFR 207.15). A signed original and fourteen (14) copies of each submission must be filed with the Secretary to the Commission in accordance with § 201.8 of the rules (19 CFR 201.8). All written submissions except for business proprietary data will be available for public inspection during regular business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary to the Commission.

Any information for which business proprietary treatment is desired must be submitted separately. The envelope and all pages of such submissions must be clearly labeled "Business Proprietary Information." Business proprietary submissions and requests for business proprietary treatment must conform with the requirements of § 201.6 and 207.7 of the Commission's rules (19 CFR 201.6 and 207.7, as amended).

Parties which obtain disclosure of business proprietary information pursuant to § 207.7(a) of the Commission's rules (19 CFR 207.7(a), as amended) may comment on such information in their written brief, and may also file additional written comments on such information no later than December 6, 1989. Such additional comments must be limited to comments on business proprietary information received in or after the written briefs.

Authority: This investigation is being conducted under authority of the Tariff Act of 1930, title VII. This notice is published

pursuant to § 207.12 of the Commission's rules (19 CFR 207.12).

By order of the Commission.

Issued: November 9, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-26799 Filed 11-14-89; 8:45 am]

BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-446 and 447; Preliminary]

Polychloroprene From France and the Federal Republic of Germany

Determinations

On the basis of the Record¹ developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is no reasonable indication that an industry in the United States is materially injured or threatened with material injury, or that the establishment of an industry in the United States is materially retarded, by reason of imports from France and the Federal Republic of Germany of polychloroprene,² provided for in subheadings 4002.41.00 and 4002.49.00 of the Harmonized Tariff Schedule of the United States (previously reported under item 446.15 of the Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 22, 1989, a petition was filed with the Commission and the Department of Commerce by E. I. du Pont de Nemours & Company, Inc., Wilmington, DE, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of polychloroprene from France and the Federal Republic of Germany. Accordingly, effective September 22, 1989, the Commission instituted preliminary antidumping investigations Nos. 731-TA-446 and 447 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC.

¹ The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

² Polychloroprene (also known as neoprene), a polymer of chloroprene (2-chloro-1,3-butadiene), is a synthetic elastomer available in two different forms: dry polymers and aqueous latex grade polymers.

and by publishing the notice in the Federal Register of September 29, 1989 (54 FR 40218). The conference was held in Washington, DC, on October 13, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determinations in these investigations to the Secretary of Commerce on November 6, 1989. The views of the Commission are contained in USITC Publication 2233 (November 1989), entitled "Polychloroprene from France and the Federal Republic of Germany: Determinations of the Commission in Investigations Nos. 731-TA-448 and 447 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By Order of the Commission.

Issued: November 7, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-26802 Filed 11-14-89; 8:45 am]
BILLING CODE 7020-02-M

[Investigations Nos. 731-TA-448, 449, and 450; Preliminary]

Sweaters Wholly or in Chief Weight of Manmade Fibers From Hong Kong, the Republic of Korea, and Taiwan

Determinations

On the basis of the record¹ developed in the subject investigations, the Commission unanimously determines, pursuant to section 733(a) of the Tariff Act of 1930 (19 U.S.C. 1673b(a)), that there is a reasonable indication that an industry in the United States is materially injured by reason of imports from Hong Kong, the Republic of Korea ("Korea"), and Taiwan of sweaters wholly or in chief weight of manmade fibers ("sweaters of manmade fibers").²

¹ The record is defined in sec. 207.2(h) of the Commission's Rules of Practice and Procedure (19 CFR 207.2(h)).

² For purposes of these investigations, sweaters of manmade fibers are defined as knitted or crocheted garments wholly or in chief weight of manmade fibers, designed to cover the upper parts of the body and in a variety of forms, including jackets, vests, cardigans with button or zipper fronts, and pullovers, the foregoing usually having ribbing around the neck, bottom, and/or cuffs (if any). The term encompasses garments of various lengths but most typically ending at the waist. The phrase "in chief weight of manmade fibers" includes sweaters containing 50 percent or more by weight of manmade fibers and sweaters where the manmade fibers predominate by weight over each other single textile material. Sweaters of manmade fibers, as defined here, do not include sweaters 23 percent or more by weight of wool or sweaters for infants 24 months of age or younger. Sweaters of manmade fibers include all sweaters regardless of the number of stitches per centimeter, but with regard to sweaters having more than nine stitches per two

provided for in subheadings 6103.23.00, 6103.29.10, 6103.29.20, 6104.23.00, 6104.29.10, 6104.29.20, 6110.30.10, 6110.30.20, 6110.30.30, and 6110.90.00 of the Harmonized Tariff Schedule of the United States (previously reported under items 381.24, 381.25, 381.35, 381.66, 381.85, 381.89, 381.90, 381.99, 384.18, 384.27, 384.54, 384.77, 384.80, 384.96, and 791.74 of the former Tariff Schedules of the United States), that are alleged to be sold in the United States at less than fair value (LTFV).

Background

On September 22, 1989, a petition was filed with the Commission and the Department of Commerce by counsel for the National Knitwear and Sportswear Association, New York, NY, alleging that an industry in the United States is materially injured or threatened with material injury by reason of LTFV imports of sweaters of manmade fibers from Hong Kong, Korea, and Taiwan. Accordingly, effective September 22, 1989, the Commission instituted preliminary antidumping investigations Nos. 731-TA-448, 449, and 450 (Preliminary).

Notice of the institution of the Commission's investigations and of a public conference to be held in connection therewith was given by posting copies of the notice in the Office of the Secretary, U.S. International Trade Commission, Washington, DC, and by publishing the notice in the Federal Register of October 2, 1989 (54 FR 40532). The conference was held in Washington, DC, on October 12, 1989, and all persons who requested the opportunity were permitted to appear in person or by counsel.

The Commission transmitted its determination in these investigations to the Secretary of Commerce on November 6, 1989. The views of the Commission are contained in USITC Publication 2234 (November 1989), entitled "Sweaters Wholly or in Chief Weight of Manmade Fibers from Hong Kong, the Republic of Korea, and Taiwan: Determinations of the Commission in Investigations Nos. 731-TA-448, 449, and 450 (Preliminary) Under the Tariff Act of 1930, Together With the Information Obtained in the Investigations."

By Order of the Commission.

Issued: November 8, 1989.

Kenneth R. Mason,
Secretary.

[FR Doc. 89-26801 Filed 11-14-89; 8:45 am]
BILLING CODE 7020-02-M

linear centimeters horizontally, only those with a knit-on rib at the bottom are included.

INTERSTATE COMMERCE COMMISSION

[Ex Parte No. 388 (Sub-No. 2)]

Intrastate Rail Rate Authority; Arkansas

AGENCY: Interstate Commerce Commission.

ACTION: Notice of recertification.

SUMMARY: Pursuant to 49 U.S.C. 11501(b), the Interstate Commerce Commission recertifies the State of Arkansas for a 5-year period.

DATES: The recertification will be effective on December 15, 1989.

FOR FURTHER INFORMATION CONTACT: Joseph H. Dettmar, (202) 275-7245 (TDD for hearing impaired: (202) 275-1721).

SUPPLEMENTARY INFORMATION:

Additional information is contained in the Commission's decision. To purchase a copy of the full decision, write to, call, or pick up in person from: Dynamic Concepts, Inc., Room 2229, Interstate Commerce Commission Building, Washington, DC 20423. Telephone: (202) 289-4357/4359. (Assistance for the hearing impaired is available through TDD services, (202) 275-1721.)

Decided: November 6, 1989.

By the Commission, Chairman Gradison, Vice Chairman Simmons, Commissioners Andre, Lamboley and Phillips.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26824 Filed 11-14-89; 8:45 am]
BILLING CODE 7035-01-M

INTERSTATE COMMERCE COMMISSION¹

[Finance Docket No. 31544]

Jaxport Terminal Railway Co.—Lease and Operation Exemption—Terminal Railroad Facilities in Jacksonville, Duval County, FL; Correction

Jaxport Terminal Railway Company (JTR), a noncarrier, has filed a notice of exemption to lease and operate 8.72 miles of rail line owned by the Municipal Docks Railroad (MDR), a unit of the Jacksonville Port Authority. The line is located between Norfolk Southern milepost 5-C and CSX Transportation, Inc., milepost 632.08, and extends eastward from the F&J junction to the Talleyrand Docks and Terminal. The transaction was to be

¹ The notice served October 30, 1989, and published October 31, 1989 (54 FR 45811) contained an incorrect consummation date.

consummated on the effective date of this notice, October 4, 1989.²

Any comments must be filed with the Commission and served on Frank J. Pergolizzi, Slover & Loftus, 1224 Seventeenth Street, NW., Washington, DC 20036.

Applicant must retain its interest in and maintain the historic integrity of all sites and structures on the line that are 50 years old or older until completion of the section 106 process of the National Historic Preservation Act, 16 U.S.C. 470, is achieved. See *Class Exemption—Acq. and Oper. of R. Lines Under 49 U.S.C. 10901, 4 I.C.C.2d 305 (1988)*.³

This notice is filed under 49 CFR 1150.31. If the notice contains false or misleading information, the exemption is void *ab initio*. Petitions to revoke the exemption under 49 U.S.C. 10505(d), may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

Decided: November 7, 1989.

By the Commission, Jane F. Mackall,
Director, Office of Proceedings.
Noreta R. McGee,
Secretary.

[FR Doc. 89-26688 Filed 11-14-89; 8:45 am]
BILLING CODE 7035-01-M

DEPARTMENT OF JUSTICE

Immigration and Naturalization Service

[INS #1222-89]

Resident Alien Card I-551; New Version

AGENCY: Immigration and Naturalization Service, Justice.

ACTION: Notice to Employers, Recruiters and Referrers for a Fee (hereinafter collectively referred to as "employer").

SUMMARY: This notice is to inform employers that a new version of the Resident Alien Card I-551 will be issued. This notice, as well as other public information material, is being published in order to advise employers of the new document which will assist them in complying with the provisions of Public Law 99-603, the Immigration Reform and Control Act of 1986 (IRCA).

² JTR states that even though the lease became effective on July 24, 1989, common carrier operations would not begin until the notice became effective. It notes that it has performed terminal railroad operations on the property during the interim period, solely as contract agent of MDR, in MDR's name and pursuant to MDR's filed tariffs.

³ JTR certifies that it has identified to the appropriate State Historic Preservation Officer all sites and structures 50 years old and older that will be transferred as result of this transaction.

SUPPLEMENTARY INFORMATION: On November 6, 1986 the President signed into law IRCA, Public Law 99-603, which amended the Immigration and Nationality Act by adding provisions relating to the control of aliens in the United States. These provisions make it unlawful for a person or other entity to hire, or to recruit or refer for a fee, for employment in the United States, aliens knowing that they are not authorized to work in the United States. Employers must hire only American citizens and aliens who are authorized to work in the United States. These provisions also provide for an employment verification system designed to prevent the employment of unauthorized aliens. The verification system requires employers to verify the employment eligibility of anyone, including American citizens, hired after November 6, 1986 by completing and retaining the Employment Eligibility Verification Form (Form I-9). In addition, under this law, employers may not discriminate against any individual (other than an unauthorized alien) in hiring, discharging, or recruiting or referring for a fee because of that individual's national origin or, in the case of a citizen or intending citizen, because of his or her citizenship status. The Office of Special Counsel, United States Department of Justice, enforces the anti-discrimination provision of the Act. IRCA caused the Service to add part 274a to title 8, Code of Federal Regulations, by redesignating part 109 with amendments as part 274a, subpart B, by: (1) Defining terms to clarify the regulations; (2) adding new sections to establish procedures for the verification of employment eligibility for workers in the United States; (3) delineating new sections to establish enforcement and process procedures for violations; (4) redesignating part 109 (Employment Authorization) as subpart B of part 274a to consolidate into one part what would otherwise be dispersed regulations.

The INS developed a Handbook for Employers (M-274) in order to assist them in the understanding and implementation of the legal requirements of IRCA. (Any employers that have not received the Handbook for Employers should contact the nearest INS office). This Notice serves as an addendum to the Handbook for Employers as it informs employers of a revised employment authorization document that INS will be issuing to aliens. A description of the document and the class of aliens to whom it is issued is described below.

I. Revision to Resident Alien Card (Also known as the Alien Registration Receipt Card or "green card")

Effective August 1, 1989, INS began issuing a revised Resident Alien Card, Form I-551, to new permanent resident (lawful immigrant) aliens. The I-551 is a List A document (page 11 of Handbook for Employers) because it establishes both identity and employment eligibility. Employers cannot specify which documents they will accept from an employee for employment eligibility verification. They must accept any document or combination of documents listed on page 11 of the Handbook for Employers. The face of the new card will be embossed with lines slightly raised above the laminate. The laminate contains an optical variable ink pattern which reads "I-551" when the card is tilted at an angle. The back of the I-551 will have a pink-to-blue rainbow effect shading on the top portion, with the bottom portion being white. The card will also contain an expiration date, making the card valid for 10 years from the date of issue; the applicant will then be required to obtain a new card, but because employment authorization is unlimited for I-551 holders, there will be no need to update the I-9.

Please Note: Resident Alien Cards Previously issued by the INS will continue to be honored.

FOR FURTHER INFORMATION CONTACT: Kathryn E. Sheehan, Deputy Assistant Commissioner, Employer and Labor Relations, Immigration and Naturalization Service, 425 I Street, NW., Washington, DC 20536, Telephone: (202) 633-2471, Room Number: 7025.

Dated: September 27, 1989.

James H. Montgomery,
Acting Associate Commissioner,
Enforcement, Immigration and Naturalization Service.

[FR Doc. 89-26715 Filed 11-14-89; 8:45 am]
BILLING CODE 4410-10-M

DEPARTMENT OF LABOR

Employment and Training Administration

[TA-W-20,111 Beaver Falls, PA; TA-W-20,112 Ambridge, PA; TA-W-20,113 Koppel, PA]

Babcock and Wilcox Co.; Negative Determination on Reconsideration

Pursuant to a remand in *United Steelworkers of America, Local 1082 v. Secretary of Labor* (USCIT 88-06-00436) in which comments were considered in support of petitioners' request for

certification, it is recommended that you affirm the Department's negative determination on the subject petition for workers of Babcock & Wilcox Company (B&W) at the above listed locations.

Counsel for the workers requested that certain witnesses and company officials be interviewed and that data from the American Institute of Steel and Iron (AISI) for the years 1980-1987 be analysed. Information obtained through the interviews of witnesses did not elicit additional substantive data not previously known. Further, the Department earlier on reconsideration met in Beaver Falls with union and company officials. Also, AISI data relevant to the period investigated was already included in the Department's tables.

Counsel claims that B&W implemented a policy of competitive pricing to maintain their market share. But, price, in itself, is not a criterion for certification. In order for a worker group to be certified eligible to apply for trade adjustment assistance, it must meet all three of the Group Eligibility Requirements of the Trade Act—a significant decrease in employment, an absolute decrease in sales or production and an increase in imports "contributing importantly" to worker separations.

Investigation findings show that only the Ambridge and Koppel facilities operated in 1987 and that production consisted only of oil country goods. Further, only worker separations in 1987 can be considered for certification since the 4-month work stoppage occurred on September 13, 1986, one year and a day prior to the date of the petition. Section 223(b)(1) of the Act does not allow for the certification of workers who were laid off prior to one year of the date of the petition. U.S. imports of oil country goods declined absolutely and relative to domestic shipments in 1987 compared to 1986.

Counsel claims that the Department treats the work stoppage and McDermott's decision to close the Beaver Falls Works as if these events were unrelated to foreign competition.

The findings, however, show that there is no causal relationship between imports and the company's decision to close. U.S. imports of oil country goods declined in 1987 compared to 1986. Further, in the period before the work stoppage, the Department's survey showed that none of the respondents increased their imports of tubular steel products while decreasing their purchases from B&W in 1986 compared to 1985. In the period after the work stoppage, the survey found some customers who increased their import purchases while decreasing their

purchases from B&W. However, all of these respondents attributed their reduced purchases from B&W to (1) the work stoppage or (2) the announced closing of the facility. Many of the respondents indicated that they needed a reliable source of supply and would have continued purchasing from B&W had they remained open for business.

Counsel for the workers requested the Department's certification of a petition dated May 8, 1989 (TA-W-22,958) which was issued on August 18, 1989 for workers at B&W's Beaver Falls Works be included in the record and serve as a basis for the certification of the instant petition. TA-W-22,958 would not form a basis for a certification of a prior negative determination issued in a different time period; with a different mix of products; different production, sales and employment data; different purchasing patterns of customers; and different import data.

Conclusion

After reconsideration, I affirm the original notice of negative determination of eligibility to apply for adjustment assistance to workers of Babcock & Wilcox, Beaver Falls, Ambridge and Koppel, Pennsylvania.

Signed at Washington, DC, this 8th day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26805 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21, 712 et al.]

Digicon Geophysical Corp.; Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance

In the matter of TA-W-21, 712, Houston, TX; TA-W-21, 712A, All Other Locations in Texas; TA-W-21, 712B, All Locations in Colorado; TA-W-21, 712C, All Locations in Oklahoma.

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on January 12, 1989 applicable to all workers of Digicon Geophysical Corporation.

Based on new information from the company, additional workers were separated from other locations in Texas and in the States of Colorado and Oklahoma. The amended notice applicable to TA-W-21, 712 is hereby issued as follows:

All workers of Digicon Geophysical Corporation, Houston, Texas and in other

locations of Texas and in the States of Colorado and Oklahoma who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26807 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for adjustment assistance issued during the period.

In order for an affirmative determination to be made and a certification of eligibility to apply for adjustment assistance to be issued, each of the group eligibility requirements of section 222 of the Act must be met.

(1) That a significant number or proportion of the workers in the workers' firm, or an appropriate subdivision thereof, have become totally or partially separated,

(2) That sales or production, or both, of the firm or subdivision have decreased absolutely, and

(3) That increases of imports of articles like or directly competitive with articles produced by the firm or appropriate subdivision have contributed importantly to the separations, or threat thereof, and to the absolute decline in sales or production.

Negative Determinations.

In each of the following cases the investigation revealed that criterion (3) has not been met. A survey of customers indicated that increased imports did not contribute importantly to worker separations at the firm.

TA-W-23,347; Miami Extruders, Miami, FL

TA-W-23,328; Savory Equipment, Inc., Lakewood, NJ

TA-W-23,283; Alsten Co., Inc., Jersey City, NJ

In the following cases, the investigation revealed that the criteria for eligibility has not been met for the reasons specified.

TA-W-23,284; Calgon Corp., Hawthorne, NJ

The investigation revealed that criterion (1) and (2) has not been met. Employment did not decline during the relevant period as required for certification. Sales or production did not decline during the relevant period as required for certification.

TA-W-23,354; Bonney Forge Corp., Allentown, PA

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,352; V-M Industries, Inc., Newark, NJ

Increased imports did not contribute importantly to workers separations at the firm.

TA-W-23,304; Texas Eastern Corp., Houston, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,385; FMC Corporation Petroleum Equipment Div., Odessa, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,311; Dresser Rand Co., Midland Repair Center, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,287; Drilling Mud Disposal, Midland, TX

The workers' firm does not produce an article as required for certification under Section 222 of the Trade Act of 1974.

TA-W-23,325; Planters Lifesavers Co., Canajoharie, NY

Increased imports did not contribute importantly to workers separations at the firm.

Affirmative Determinations

TA-W-23,294; Knapp Shoe (Barber Div), Lewiston, ME

A certification was issued covering all workers separated on or after August 9, 1988.

TA-W-23,288; Electro-Design, Inc., Ferndale, MI

A certification was issued covering all workers separated on or after August 8, 1988.

TA-W-23,300; Sharidge, Inc., Ira, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,237; Malouf Co., Willpoint, TX

A certification was issued covering all workers separated on or after January 1, 1989.

TA-W-23,238; Malouf Co., Canton, TX

A certification was issued covering all workers separated on or after July 26, 1988.

TA-W-23,351; Unisys Reconditioning Center, Mendota Heights, MN

A certification was issued covering all workers separated on or after November 1, 1988.

TA-W-23,255; Enfield Apparel Co., Enfield, IL

A certification was issued covering all workers separated on or after January 1, 1989 and before May 3, 1989.

TA-W-23,255; Enfield Apparel Co., Enfield, IL

A certification was issued covering all workers separated on or after January 1, 1989 and before May 3, 1989.

TA-W-23,408; AT & T, Inc., Material Management System Div., Arlington, VA

A certification was issued covering all workers separated on or after September 8, 1989 and before December 31, 1989.

TA-W-21,863; Helmerich & Payne Drilling Co., Pearl, MS

A certification was issued covering all workers separated on or after October 1, 1989.

TA-W-21,497; W.L. Kreider's Sons Manufacturing Co., Inc., Palmyra, PA

A certification was issued covering all workers separated on or after October 12, 1989.

TA-W-21,925; Petromark Resources Co., Midland, TX

A certification was issued covering all workers separated on or after November 8, 1989.

TA-W-21,789; B & B Oil Well Service Co., Heidelberg, MS

A certification was issued covering all workers separated on or after January 1, 1989 and before March 1, 1987.

TA-W-21,510; Ceja Corp., Tulsa, OK

A certification was issued covering all workers separated on or after October 14, 1987.

TA-W-21,529; Reed Oil Co., Chanute, KS

A certification was issued covering all workers separated on or after October 17, 1987.

TA-W-21,473; Pride Oil Well Service, Kilgore District, Kilgore, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before August 31, 1987.

TA-W-21,409; Don Knapp Oil Production, Oxford, KS

A certification was issued covering all workers separated on or after October 7, 1987.

TA-W-21,748; Oilwell Servicing Co., Denver City, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before March 31, 1988.

TA-W-21,585; Rig Supplies, Inc., Billings, MT

A certification was issued covering all workers separated on or after October 1, 1985 and before September 1, 1986.

TA-W-21,556; Cantex Drilling Co., Andrews, TX

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,520; JHJ Drilling Co., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 31, 1986.

TA-W-21,488; Trident Oilfield Service and Construction Co., Olney, IL

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,402; C.D. Turner Oil Operator, Big Spring, TX

A certification was issued covering all workers separated on or after October 6, 1987.

TA-W-21,427; Geo N. Mitchell Drilling Co., Inc., Carmi, IL

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,446; M-I Drilling Fluids Co., (Formerly Dresser Magcobar), Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,508; CRC Wireline, Inc., Odessa, TX and Operating at Various Locations in The Following States:

TA-W-21,508A LA

TA-W-21,508B MS

TA-W-21,508C NM

TA-W-21,508D OK

TA-W-21,508E TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,268; Great Lakes Enterprises, Inc., Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,310; Seismic Prospecting of Denver, Englewood, CO

A certification was issued covering all workers separated on or after June 30, 1987.

TA-W-21,622; Exeter Drilling Co., Denver, CO

A certification was issued covering all workers separated on or after January 1, 1986 and before March 31, 1987

TA-W-21,251; Adcor Drilling, Inc., (Formerly Nicor Drilling, Inc.), Williston, ND & Operations at Various Locations in The Following States

TA-W-21,251A CO

TA-W-21,251B LA

TA-W-21,251C MT

TA-W-21,251D ND

TA-W-21,251E OK

TA-W-21,251F TX

TA-W-21,251G UT

TA-W-21,251H WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,628; Glenn Drilling Co., Owensboro, KY

A certification was issued covering all workers separated on or after October 1, 1985 and before December 21, 1988.

TA-W-21,198; L & H Shirt Co., Cochran, GA

A certification was issued covering all workers separated on or after September 12, 1987.

TA-W-21,051; American Tubular Systems, Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,113; Louis Clark, Inc., Philadelphia, PA

A certification was issued covering all workers separated on or after November 12, 1988.

TA-W-21,179; Exploration Employment Service, Inc., Livingston, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,226; Signal Oilfield Service, Sidney, MT

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,201; Magnatex Corp., Midland, TX

A certification was issued covering all workers separated on or after September 14, 1987.

TA-W-21,187; Gibson Drilling Co., Kilgore, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1988.

TA-W-21,112; London Knitting Mills, Philadelphia, PA

A certification was issued covering all workers separated on or after September 12, 1987.

TA-W-21,110; King Drilling Co., Tullis, LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,122; Moore Petroleum Services, Laredo, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before January 1, 1987.

TA-W-21,199; Lambert Construction Co., Odessa, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before November 1, 1988.

TA-W-21,247; Vandrill, Inc., Edmond, OK

A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,221; Rock Island Drilling Corp., Midland, TX

A certification was issued covering all workers separated on or after January 1, 1987.

TA-W-21,193; High Sky Drilling, Inc., Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,248; Van's Well Service, Inc., Forsan, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,203; Milpark Drilling Fluids, Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,116; MRM Knitting Co., Abilene, TX

A certification was issued covering all workers separated on or after January 1, 1986 and before September 30, 1987.

TA-W-21,126; Ostrom Well Service, Plainville, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,127; Patterson Drilling Co., Snyder, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,165; Cenex, Billings, MT

A certification was issued covering all workers separated on or after September 21, 1987.

TA-W-21,200; Lon O. Miller, Inc., Grafton, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,129; R. Say Enterprise, Wheat Ridge, CO

A certification was issued covering all workers separated on or after January 1, 1986 and before January 1, 1987.

TA-W-21,130; Republic Drilling Co., Wichita, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,131; Riley Drilling Co., Big Springs, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,131A Riley Drilling Co. at Various Locations in Texas

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,143; Superior Brands, Inc., Curwensville, PA

A certification was issued covering all workers separated on or after September 1, 1988.

TA-W-21,144; TMBR Sharp Drilling, Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,225; SAW Drilling, Victoria, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,265; Elite Wireline, Inc., Skiatook, OK

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,346; General Motors Corp., Saginaw Div., Athens, AL

A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,487; Tower Drilling Co., Northglenn, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,249; Wolverine World Wide, Inc., Big Rapids, MI

A certification was issued covering all workers separated on or after September 22, 1987.

TA-W-21,296; Perdue Oilfield Service, Beattyville, KY

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,319; Whiteside Casing Crew, Inc., Laredo, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,305; *Rebel Rentals, Inc.*,
Youngsville, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,345; *General Motors Corp.*,
Fisher Guide Div., Elyria, OH

A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,327; *Big Chief Drilling*,
Oklahoma City, OK

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,338; *E&S Drilling Co.*, Odessa,
TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1986.

TA-W-21,368; *M.R. Drilling Co.*,
Monahans, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,475; *Saidem Drilling Co.*,
Midland, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,396; *Amazon Technologies*,
Inc., Longmount, CO

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,306; *Red Fork Drilling Co.*,
Seminole, OK

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1987.

TA-W-21,304; *RAM Drilling Co.*,
Browns, IL

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,189; *Hembree Well Service*,
Ness City, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,190; *Hembree Well Service*,
Garden City, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,191; *Hembree Well Service*,
Ellis, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,192; *Hembree Well Service*,
Great Bend, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,264; *E.Z. Construction*, Keene,
ND

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,558; *Dia-Log Co.*, Natchez, MS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,559; *Dia-Log Co.*, Kilgore, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,560; *Dia-Log Co.*, Hammond,
LA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,584; *Revlin Drilling, Inc.*,
Russell, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,021; *Consolidated Oil Well*
Service, Inc., Chanute, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,289; *John L. Cox*, Oklahoma
City, OK

A certification was issued covering all workers separated on or after December 1, 1987.

TA-W-22,229; *Hazle Garment Inc.*,
Hazleton, PA

A certification was issued covering all workers separated on or after November 21, 1987 and before December 31, 1988.

TA-W-22,055; *Penn American Energy*
Corp., Titusville, PA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,136; *F&N Drilling Co.*, Tyler,
TX

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1986.

TA-W-21,912; *Noble Drilling Corp.*,
New Orleans, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-21,913; *Noble Drilling Corp.*,
Williston, ND

A certification was issued covering all workers separated on or after October 1, 1985 and before June 30, 1987.

TA-W-22,242; *Lucky's Well Service*, St.
Elmo, IL

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,802; *Broughton Offshore LTD*,
Lafayette, LA

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-21,776; *Aldebaran Drilling Co.*,
Pratt, KS

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1988.

TA-W-22,237; *Klev-Bro Shoe*
Manufacturing Co., Derry, NH

A certification was issued covering all workers separated on or after November 1, 1988.

TA-W-21,783; *Arapahoe Drilling Co.*,
Inc., Farmington, NM

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,526; *Mellon Drilling Co.*, San
Angelo, TX

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,666; *Sipple Oil Co.*,
Beattyville, KY

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,847; *Geophysics International*
Corp., Dallas, TX

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,738; *Morning Star Drilling*,
Inc., Abilene, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-21,432; *Health-Tex, Inc.*, Guin,
AL

A certification was issued covering all workers separated on or after October 10, 1987.

TA-W-22,056; *Pfeifer Well Service, Inc.*,
Hill City, KS

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1987.

TA-W-20,490; *Universal Resources*
Corp., Denver, CO

A certification was issued covering all workers separated on or after October 7, 1987.

TA-W-22,075; *Sunstrand Heat Transfer*,
Inc., Dowagiac, MI

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-21,782; *Aqua/Enviro Field*
Services, Inc., Bradford, PA

A certification was issued covering all workers separated on or after January 1, 1988.

TA-W-22,082; *Tioga Swabbing Service*,
Inc., Tioga, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,858; H&N Oil Well Cementing Co., Inc., El Dorado, AZ

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,144; Gearhart Industries, Inc., Homer City Station, Homer City, PA

A certification was issued covering all workers separated on or after October 1, 1985 and before January 1, 1989.

TA-W-21,934; Quarles Drilling Corp., Tulsa, OK & at Various Locations in The Following States

TA-W-21,934A OK

TA-W-21,934B MS

TA-W-21,934C TX

TA-W-21,934D NM

TA-W-21,934E WY

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,835; Explo, Inc., El Dorado, AZ

A certification was issued covering all workers separated on or after November 3, 1987.

TA-W-22,175; Questa Petroleum Co., Pittsburgh, PA

A certification was issued covering all workers separated on or after November 18, 1987.

TA-W-22,339; Zenith Drilling Corp., Wichita, KS

A certification was issued covering all workers separated on or after December 10, 1987.

TA-W-21,743; Nowsco Service, Houston, TX

A certification was issued covering all workers separated on or after October 1, 1985 and before December 31, 1986.

TA-W-22,081; Thompson Oil and Gas Co., Pleasantville, PA

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-22,125; El Paso Natural Gas Co., (Farmington & San Juan Div.) Farmington & Kirkland, NM

A certification was issued covering all workers separated on or after November 17, 1987.

TA-W-22,027; Eliasof Bros., Inc., Bronx, NY

A certification was issued covering all workers separated on or after September 7, 1987 and before August 31, 1988.

TA-W-22,325; Lexington Products, Lexington, MS

A certification was issued covering all workers separated on or after December 13, 1987.

TA-W-22,330; Reynolds Energy, Inc., San Angelo, TX

A certification was issued covering all workers separated on or after November 30, 1987.

TA-W-22,240; Levelor Lorentzen, Inc., Warehouse, Parsippany, NJ

A certification was issued covering all workers separated on or after November 10, 1987 and before January 31, 1989.

TA-W-22,250; Pickens Footwear Co., Jasper, GA

A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after November 17, 1987 and before January 2, 1989.

TA-W-22,225; Gold Seal Rubber Co., Readville, MA

A certification was issued covering all workers engaged in the production of canvas/rubber footwear separated on or after January 1, 1988.

TA-W-21,709; Convest Energy Corp., Houston, TX

A certification was issued covering all workers separated on or after November 18, 1987.

TA-W-21,751; Regas Drilling Co., Columbia, MS

A certification was issued covering all workers separated on or after January 1, 1986 and before December 31, 1986.

TA-W-22,039; General Atlantic Energy, Denver, CO

A certification was issued covering all workers separated on or after August 6, 1986.

TA-W-22,064; Selin Sportswear, Inc., Brooklyn, NY

A certification was issued covering all workers separated on or after September 7, 1987 and before September 30, 1988.

TA-W-21,763; Don Poole Spudder Service, Inc., Norris City, IL

A certification was issued covering all workers separated on or after October 1, 1985 and before January 31, 1986.

TA-W-21,302; Pool Well Servicing Co., Keene, ND

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,609; Cornish Wireline Service, Inc., Chanute, KS

A certification was issued covering all workers separated on or after October 1, 1985.

TA-W-21,378; Pernie Bailey Drilling Co., Port Barre, LA & Operating At Various Locations in the Following States

TA-W-21,378A LA

TA-W-21,378B TX

A certification was issued covering all workers separated on or after October 1, 1985 and before April 19, 1987.

TA-W-21,382; Resource Investments Corp., Denver, CO

A certification was issued covering all workers separated on or after October 4, 1987.

TA-W-21,382A; Energy Management Corp., Denver, CO

A certification was issued covering all workers separated on or after October 4, 1987.

I hereby certify that the aforementioned determinations were issued during the month of October 1989. Copies of these determinations are available for inspection in Room 6434, U.S. Department of Labor, 601 D Street NW., Washington, DC 20213 during normal business hours or will be mailed to persons who write to the above address.

Dated: November 7, 1989.

Marvin M. Fooks,

Director, Office of Trade Adjustment Assistance.

[FR Doc. 89-26806 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

[TA-W-21,534, etc.]

Amended Certification Regarding Eligibility To Apply for Worker Adjustment Assistance; Sedco Forex Resources, et al.

In the matter of Sedco Forex Resources, Incorporated (A Subsidiary of Schlumberger Technology Corporation) Headquarters Dallas, Texas and all Mobile Marine and Land Based Units and Land Offices Operating Out of or in the Following States: TA-W-21,534A, Alaska, TA-W-21,534B, California, TA-W-21,534C, Louisiana, TA-W-21,534D, Texas (excluding Dallas).

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility to Apply for Worker Adjustment Assistance on February 9, 1989 applicable to all workers of Sedco Forex/Schlumberger, Dallas, Texas.

The certification is being amended to reflect the correct worker groups. New information from the company indicates that the identification of the worker group as Sedco Forex/Schlumberger, Continental United States, Dallas, Texas does not reflect the appropriate worker groups. At the time of the Department's certification Sedco Forex had only mobile marine units. However, the retroactive provisions extended the impact date back to October 1, 1985 when a different organizational structure existed—one which included

land-based units and supportive land offices. Accordingly, the amended notice applicable to TA-W-21,534 is hereby issued as follows:

All workers of Sedco Forex Resources, Inc., Dallas, Texas and all mobile marine and land based units and land offices operating out of or in Alaska, California, Louisiana and Texas (excluding Dallas) who became totally or partially separated from employment on or after October 1, 1985 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2d day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26852 Filed 11-14-89; 8:45 am]

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[TA-W-22,837, Tioga, ND and TA-W-22,837A, Sidney, MT]

**Wiedmer Brothers Well Service;
Amended Certification Regarding
Eligibility To Apply for Worker
Adjustment Assistance**

In accordance with section 223 of the Trade Act of 1974 (19 U.S.C. 2273) the Department of Labor issued a Certification of Eligibility To Apply for Worker Adjustment Assistance on June 30, 1989, applicable to all workers of Wiedmer Brothers Well Service, Tioga, North Dakota. The certification was published in the *Federal Register* on July 19, 1989 (54 FR 30291).

Based on new information from the company, additional workers were separated from Wiedmer Brothers Well Service located in Sidney, Montana. The amended notice applicable to TA-W-22,837 is hereby issued as follows:

All workers of Wiedmer Brothers Well Service, Tioga, North Dakota and Sidney, Montana who became totally or partially separated from employment on or after August 1, 1988 are eligible to apply for adjustment assistance under section 222 of the Trade Act of 1974.

Signed at Washington, DC, this 2nd day of November 1989.

Robert O. Deslongchamps,

Director, Office of Legislation and Actuarial Services, UIS.

[FR Doc. 89-26808 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

**Apprenticeship 2000—Short Term
Research Projects; Supplementary
Information**

AGENCY: Employment and Training Administration, Labor.

ACTION: Notice.

SUMMARY: This notice provides supplementary information to the notice announcing completion of the Apprenticeship 2000 short-term research reports, originally published in the *Federal Register* on September 21, 1989 (54 FR 38913). The additional information is needed to obtain price quotes and to order complete copies of the reports.

ADDRESS: To obtain price quotes and to order complete copies of the reports (available on paper and microfiche), write to the National Technical Information Service (NTIS), Springfield, VA 22151; telephone (703) 487-4650.

FOR FURTHER INFORMATION CONTACT: James D. Van Erden, Director, Bureau of Apprenticeship and Training, Office of Job Training Programs, Employment and Training Administration, Department of Labor, Room N-4649, 200 Constitution Ave. NW., Washington, DC 20210, telephone: (202) 535-0540.

SUPPLEMENTARY INFORMATION: The following information is an addition to the section entitled "Synopsis of Short-Term Research Projects" which appeared in the *Federal Register* at 54 FR 38913 (September 21, 1989). This additional information relates to the Apprenticeship 2000 short-term research projects, and contains the necessary information to request an order through the National Technical Information Service (NTIS). Listed below are: the subject matter; the research projects; the researchers names; the corresponding accession and report numbers.

1. Issues Relating to Expansion of Apprenticeship to New Industries and Occupations: (a) Expanding the Use of Apprenticeship, Dr. Robert Glover, PB89 236798/AS, Report No. 99-8-4694-75-023-04; (b) Issues Relating to Expansion of Apprenticeship to New Industries and Occupations, Stan Markuson, PB89 236780/AS, Report No. 87-75-04-034; (c) Barriers and Opportunities for Expanding Apprenticeship, Fedrau and Associates, PB89 236913/AS, Report No. 99-8-4696-75-021; and (d) Models for Expanding Apprenticeship into Non-Traditional Areas, Fedrau and Associates, PB89 236897/AS, Report No. 99-8-4696-75-020-04.

2. Review Issues and Barriers Relating to Women in Apprenticeship, The Enhancement Group, Inc., PB89 236772/AS, Report No. 99-9-4561-75-014-04.

3. A Review of Financial and Non-Financial Incentives for Apprenticeship Programs, Dr. Robert Glitter, PB89 236889, Report No. 99-8-4695-022-04.

4. Vocational Education, Counseling, and Information Processes: (a) Linking the Secondary Vocational Education System with Apprenticeship, Fedrau and

Associates, PB89 236905/AS, Report No. 99-8-4696-75-019-04; (b) Explore Vocational Education, Counseling, and Information Processes, Meridian Corporation, PB89 236863/AS, Report No. 99-8-4697-75-017-04; (c) Report on Study of Existing and Potential Linkages Between Apprenticeship and Cooperative Education, National Child Labor Committee, PB89 236806/AS, Report No. 99-8-2412-75-012-04; and (d) The Status of and Recommendations for Improved Counselling, Guidance, and Information Processes, National Center for Researching Vocational Education, PB89 236855/AS, Report No. 99-8-30387-75-013-04.

5. Issues related to the EEO Apprenticeship Regulations, The Enhancement Group, PB89 236830/AS, Report No. 99-8-4561-75-015-04.

6. Analysis of State Roles and Responsibilities, Meridian Corp., PB89 236871/AS, Report No. 99-8-4697-75-018-04.

7. A Study on Ratios, James P. Mitchell, PB89 236822/AS, Report No. 99-8-4723-75-030-04.

8. Teaching and Learning on the Job, A Framework for Assessing Workplaces as Learning Environments, Drs. Stephen and Mary Hamilton, PB89 236814/AS, Report No. 99-8-4731-75-036-04.

Signed at Washington, DC, this 7th day of November 1989.

Roberts T. Jones,

Assistant Secretary of Labor for Employment and Training.

[FR Doc. 89-26809 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-30-M

Mine Safety and Health Administration

[Docket No. M-89-22-M]

**ASARCO, Inc.; Petition for Modification
of Application of Mandatory Safety
Standard**

ASARCO, Incorporated, Box 440, Wallace, Idaho 83873 has filed a petition to modify the application of 30 CFR 49.8(b) (training for mine rescue teams) to its Coeur Mine (I.D. No. 10-00479) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that upon completion of the initial training, all term members are required to receive at least 40 hours of refresher training annually. This training is required to be given at least 4 hours

each month, or for a period of 8 hours every two months.

2. Petitioner states that requiring at least 4 hours of refresher training each month or 8 hours every two months would result in a diminution of safety for the underground personnel because most of the experienced mine rescue personnel would resign.

3. In support of this request, petitioner states that—

(a) Most of the rescue team personnel are veterans; and

(b) Adequacy of training cannot be measured in hours spent in training. Performance and knowledge are the only valid criteria.

4. For these reasons, petitioner requests a modification of the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26812 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-162-C]

Blue Diamond Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Blue Diamond Coal Company, P.O. Box 87, Leatherwood, Kentucky 41756 has filed a petition to modify the application of 30 CFR 75.1002 (location of trolley wires, trolley feeder wires, high-voltage cables and transformers) to its Turkey No. 4 Mine (I.D. No. 15-16478) located in Perry County, Kentucky. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that trolley wires and trolley feeder wires, high-voltage cables and transformers not be located in the last open crosscut and be kept at least 150 feet from pillar workings.

2. As an alternate method, petitioner proposes to install a 2400-volt power system for the longwall with specific

techniques and procedures as outlined in the petition.

3. In support of this request, petitioner states that the system would be installed and maintained in a permissible nature and all the fault and monitor components would be more sensitive to detection than the 995-volt power system.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26816 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-21-M]

Bunker Hill Mining (U.S.) Inc.; Petition for Modification of Application of Mandatory Safety Standard

Bunker Hill Mining (U.S.) Inc., P.O. Box 29, Kellogg, Idaho 83837 has filed a petition to modify the application of 30 CFR 57.19011 (drum flanges) to its No. 1 Hoist at the Bunker Hill Mine (I.D. 10-00083) located in Shoshone County, Idaho. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that flanges on drums extend radially a minimum of 4 inches or three rope diameters beyond the last wrap, whichever is the lesser.

2. As an alternate method, petitioner proposes to use an idler pulley to maintain sufficient fleet angle to prevent the rope from winding off the drum.

3. In support of this request, petitioner states that—

(a) The idler wheel only has 5 feet of travel distance from side to side and the drum diameter is 8 feet in width;

(b) While the hoist is running and the rope is wrapping on the drum, the angle of fleet pull on the rope when it reaches

its outer edges is always toward the middle of the drum. This pulling force will now allow the rope to extend past the flange should the rope become slack; and

(c) A hoistman states that the proposed alternative method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26815 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-163-C]

Dominion Coal Corp.; Petition for Modification of Application of Mandatory Safety Standard

Dominion Coal Corporation, P.O. Box 70, Vansant, Virginia 24656 has filed a petition to modify the application of 30 CFR 75.305 (weekly examinations for hazardous conditions) to its Dominion No. 11 Mine (I.D. No. 44-03763) located in Buchanan County, Virginia. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that a return aircourse be examined in its entirety on a weekly basis.

2. Due to a rock fall, a certain area of the return aircourse is inaccessible. Composition of the material is not conducive to the placement of supplemental roof support for safe travel over the rock fall.

3. As an alternate method, petitioner proposes that—

(a) The examiner would enter the aircourse to conduct the weekly examination to a safe distance from the rock fall;

(b) From this location, the examiner would conduct visual observations only to the opposite side of the rock fall;

(c) Upon completion of the visual observation, the examiner would travel the belt line entry, which is parallel to the return aircourse, to a safe distance on the opposite side of the rock fall; and

(d) The examiner would then re-enter the return aircourse and continue the examination as required.

4. In support of this request, petitioner states that adequate clearance is available above the rock fall for visible observations and examinations from either direction; airflow has not been adversely affected due to the rock fall; and two separate and distinct escapeways are available.

5. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26814 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-157-C]

Peabody Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Peabody Coal Company, 301 North Memorial Drive, P.O. Box 373, St. Louis, Missouri 63166 has filed a petition to modify the application of 30 CFR 75.1403-9(a) (shelter holes) to its Sunnyhill No. 9 South Mine (I.D. No. 33-01068) located in Perry County, Ohio. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that shelter holes be provided on track haulage roads at intervals of not more than 105 feet unless otherwise approved by the Coal Mine Safety District Manager.

2. As an alternate method, petitioner requests that shelter hole intervals be extended to 500 feet.

3. In support of this request, petitioner states that—

(a) Shelter holes would be designated and maintained in accordance with 30 CFR 75.1403-9(b);

(b) Vehicle operators would be instructed to reduce vehicle speed, sound warning devices alerting persons working in the track entry; and

(c) Clearance on the walkway side of the track entry would be at least 24 inches from the farthest projection of normal traffic, except where the installation of roof support prohibits such clearance. Pedestrians would have the right of way in these instances.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26811 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-159-C]

Twentymile Coal Co.; Petition for Modification of Application of Mandatory Safety Standard

Twentymile Coal Company, P.O. Box 748, Oak Creek, Colorado 80467 has filed a petition to modify the application of 30 CFR 75.300-4 (inspection, examinations, and records) to its Foidel Creek Mine (I.D. No. 05-03836) located in Routt County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that all main fans be inspected daily to ensure the electrical and mechanical reliability of the fans. That the fan pressure recording gauges be examined daily, the charts for the gauges be changed after completing one

revolution and results of the inspections be recorded in an approved daily fan inspection book.

2. Petitioner requests a modification of the standard to permit the use of continuous remote monitoring of fans in lieu of daily inspections for two fans located in the mine and for any other fans installed under similar circumstances in the future.

3. As an alternate method, petitioner proposes that—

(a) A computerized mine monitoring system would be used to remotely monitor and record the fan motor amperage, fan bearing temperatures and fan water gauge;

(b) Connection between the remote sensors and the central processing unit (CPU) would be made by direct connection with the mine monitoring trunk line or by radio modem;

(c) The information recorded by the CPU would be printed daily for review by a person trained and designated by management to interpret this information. Sufficient information would be printed to allow trends to be established. The person reviewing the printout would date and sign it daily;

(d) The printouts would be retained for one year;

(e) An automatic signal device designed to give an alarm would be placed so it would be seen or heard by a responsible person who is always on duty when persons are working underground. The alarm would activate should the fan slow, stop or should the fan bearings overheat. The alarm would also activate should the system lose communications with the sensors for a time period exceeding 15 minutes; and

(f) In case of failure of any one of the required sensors, or failure of the system daily inspections of the fan would be conducted in accordance with 30 CFR 75.300-4(a).

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26813 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

[Docket No. M-89-160-C]

Western Fuels-Utah, Inc.; Petition for Modification of Application of Mandatory Safety Standard

Western Fuels-Utah, Inc., P.O. Box 1067, Rangely, Colorado 81648 has filed a petition to modify the application of 30 CFR 75.1105 (housing of underground transformer stations, battery-charging stations, substations, compressor stations, shops, and permanent pumps) to its Deserado Mine (I.D. No. 05-03505) located in Rio Blanco County, Colorado. The petition is filed under section 101(c) of the Federal Mine Safety and Health Act of 1977.

A summary of the petitioner's statements follows:

1. The petition concerns the requirement that air currents used to ventilate structures or areas enclosing electrical installations be coursed directly into the return.

2. Petitioner requests a modification of the standard to permit the coursing of air ventilating electrical installations to the beltline where a return is not available for immediate use with specific equipment and procedures as outlined in the petition.

3. In support of this request, petitioner states that—

(a) The velocity of air on the beltline would be at least 50 feet per minute and not exceed 300 feet per minute; and

(b) The beltline, where installations would be vented to, would be set up to direct the belt air to the nearest return in the direction of the airflow. Any installations that are close to a surface portal would be vented so the air is directed to the outside.

4. Petitioner states that the proposed alternate method will provide the same degree of safety for the miners affected as that afforded by the standard.

Request for Comments

Persons interested in this petition may furnish written comments. These comments must be filed with the Office of Standards, Regulations and Variances, Mine Safety and Health Administration, Room 627, 4015 Wilson Boulevard, Arlington, Virginia 22203. All comments must be postmarked or received in that office on or before December 15, 1989. Copies of the petition are available for inspection at that address.

Dated: November 2, 1989.

Patricia W. Silvey,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 89-26810 Filed 11-14-89; 8:45 am]

BILLING CODE 4510-43-M

LOWER MISSISSIPPI DELTA DEVELOPMENT COMMISSION

Open Meeting

Background

The Lower Mississippi Delta Development Commission was created by Pub. L. 100-460, signed on October 1, 1988. The purpose of the Commission is to identify and study the economic development, infrastructure, employment, transportation, resource development, education, health care, housing, and recreation needs of the Lower Mississippi Delta region by seeking and encouraging the participation of interested citizens, public officials, groups, agencies, and others in developing a 10-year plan that makes recommendations and establishes priorities to alleviate the needs identified. The Commission will make its final report to Congress, the President, and the Governors of Arkansas, Illinois, Kentucky, Louisiana, Mississippi, Missouri, and Tennessee no later than May 14, 1990.

This notice announces the Mississippi public hearing.

Public Hearing

Time: 5:30 p.m., November 28, 1989

Place: Mississippi Valley State University, Highway 82 West, Itta Bena, Mississippi 38941

Status: Open meeting

Contact: Gwen Harmon, Telephone (901) 753-1400.

Wilbur F. Hawkins,

Executive Director.

[FR Doc. 89-26780 Filed 11-14-89; 8:45 am]

BILLING CODE 6820-SN-M

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 89-79]

NASA Advisory Council, Space Station Science and Applications Advisory Subcommittee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Pub. L. 92-463, as amended, the National

Aeronautics and Space Administration announces a forthcoming meeting of the NASA Advisory Council (NAC), Space Station Science and Applications Advisory Subcommittee (SSSAAS).

DATES: December 6, 1989, 8:30 a.m. to 6 p.m., December 7, 1989, 8:30 a.m. to 5:30 p.m., and December 8, 1989, 8:30 a.m. to 1 p.m.

ADDRESS: National Aeronautics and Space Administration, Room 226A, 600 Independence Avenue, SW., Washington, DC 20546.

FOR FURTHER INFORMATION CONTACT:

Mr. Robert C. Rhome, Code E, National Aeronautics and Space Administration, Washington, DC 20546 (202/453-1425).

SUPPLEMENTARY INFORMATION: The Space Station Science and Applications Advisory Subcommittee reports to the Space Science and Applications Advisory Committee (SSAAC) and consults with and advises the NASA Office of Space Science and Applications (OSSA) on the new capabilities to be made available by the Space Station program and how these may be most effectively utilized. It also advises the NASA Office of Space Station (OSS) on how the Space Station program may most effectively support potential science and applications users. The Subcommittee will meet to discuss space station reconfiguration activity, rephased station support to science, communication and information systems issues, and science operations and experiment support. The group is chaired by Dr. Robert J. Bayuzick and is composed of 20 members. The meeting will be open to the public up to the capacity of the room (approximately 50 people including the members of the Subcommittee).

Type of Meeting: Open.

Agenda:

Wednesday, December 6

8:30 a.m.—Opening Remarks.

8:45 a.m.—Action Item Review and Status.

Space Station Reconfiguration Review

9 a.m.—Reports: Space Station Status, Office of Space Science and Applications Impacts, International Impacts, Life Sciences, Communications, Earth Sciences, Solar System Exploration, Microgravity Sciences, Astrophysics, and Space Physics.

6 p.m.—Adjourn.

Thursday, December 7

Communications and Information Systems

8:30 a.m.—Telescience: Tutorial, Testing Concepts and Office of Space

Science and Applications (OSSA) Plans for Incorporating into Space Station Freedom (SSF) Operations.

10 a.m.—Data Flows, Capacity Analysis, Tracking and Data Relay Satellite System (TDRSS) Reliability, Redundancy, and International Interoperability.

10:30 a.m.—Offices of Space Station/Space Operations/Space Science and Applications Joint Planning.

11 a.m.—Information Systems Strategic Plan (ISSP) Status.

Science Operations and Experiment Support

1 p.m.—Spacelab Lessons learned and SSF Operations Concepts/Designs.

2:30 p.m.—Consolidated Operations and Utilization Plan (COUP) Guidelines and Space Station User Mission Information Tracking System (SUMITS) Data Base.

3:30 p.m.—Joint Science Utilization Study (JSUS) and Follow-on Activities.

4:30 p.m.—Rack and Interface Commonality.

5:30 p.m.—Adjourn.

Friday, December 8

SSSAAS Summer Workshop

8:30 a.m.—Response to the 1989 Summer Workshop

Recommendations: Life Sciences, Materials and Fluid Sciences, and Observing Sciences.

10:30 a.m.—Planning the 1990 Summer Workshop.

12:30 p.m.—Review of Action Items and Closing Remarks.

1 p.m.—Adjourn.

Dated: November 8, 1989.

John Gaff,

Advisory Committee Management Officer,
National Aeronautics and Space Administration.

[FR Doc. 89-26776 Filed 11-14-89; 8:45 am]

BILLING CODE 7510-01-M

NATIONAL SCIENCE FOUNDATION

Advisory Committee For Cross-Disciplinary Activities; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Committee for Cross-Disciplinary Activities, CISE Directorate.

Date and Time: November 30–December 1, 1989; 8:30 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW., room 540, Washington, DC 20550.

Type of Meeting: Open.

Contact Person: Mrs. Barbara H. Palmer, Administrative Officer, CISE Office of Cross Disciplinary Activities,

room 304, National Science Foundation, Washington, DC 20550. (202) 357-7349.

Minutes: May be obtained from the contact person at the above address.

Purpose of Committee: to provide regular advice, recommendations, and oversight to the Office in guiding its policy decisions with regard to the programs within its purview.

Agenda:

November 30, 1989, 8:30–12 noon.

Review and discussion of current OCDA activities.

12–1:30 p.m. Lunch.

1:30 p.m.–5 p.m. Discussions with Assistant Director and Director.

Review of OCDA budget and plans.

December 1, 1989 8:30 p.m.–12 noon.

Review of cross-directorate activities.

Advisory Committee review of OCDA Plans.

12:00–1:30 Lunch

1:30 p.m.–3:30 p.m.

Advisory Committee open discussion of OCDA activities and plans.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26724 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Panel for Archaeology; Meeting

The National Science Foundation announces the following meeting:

Name: Advisory Panel for Archaeology.

Date and Time: November 30 and December 1, 1989, 9 a.m.–5 p.m.

Place: National Science Foundation, 1800 G Street, NW., Room 523, Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: Dr. John E. Yellen, Program Director, Anthropology Program, room 320, National Science Foundation, Washington, DC 20550. Telephone (202) 357-7804.

Minutes: May be obtained from contact person listed above.

Purpose of Meeting: To provide advice and recommendations concerning support for research in Archaeology.

Agenda: To review and evaluate research proposals as part of the selection process for awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within

exemptions 4 and 6 of the Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26723 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science and Technology Centers.

Date and Time: November 28–29, 1989—8:30 a.m. to 5 p.m. each day.

Place: Rooms 642–643, National Science Foundation, 1800 G Street NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science and Technology Centers Development, (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science and Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26725 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science & Technology Centers.

Date and Time: November 29–30, 1989—8:30 a.m. to 5 p.m. each day.

Place: Room 533, National Science Foundation, 1800 G Street, NW., Washington, DC 20550.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science & Technology Centers Development (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science & Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature, including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Office,

[FR Doc. 89-26726 Filed 11-14-89; 8:45 am]

BILLING CODE 7555-01-M

Advisory Committee for Science and Technology Centers; Meeting

The National Science Foundation announces the following meeting:

Name: Science and Technology Research Centers Panel of the Advisory Committee for Science & Technology Centers.

Date and Time: November 30-December 1, 1989, 8:30 a.m. to 5 p.m. each day.

Place: State Plaza Hotel, 2117 E Street, NW., Washington, DC 20037.

Type of Meeting: Closed.

Contact Person: William C. Harris, Director, Office of Science & Technology Centers Development (202) 357-9808, room 533, National Science Foundation, Washington, DC 20550.

Minutes: May be obtained from the Contact Person at the above address.

Purpose of Meeting: To provide advice and recommendations concerning support for Science and Technology Research Centers.

Agenda: Review and evaluation of Science & Technology Research Centers Proposals as part of the selection process of awards.

Reason for Closing: The proposals being reviewed include information of a proprietary or confidential nature,

including technical information; financial data, such as salaries; and personal information concerning individuals associated with the proposals. These matters are within exemptions (4) and (6) of 5 U.S.C. 552b(c), Government in the Sunshine Act.

M. Rebecca Winkler,

Committee Management Officer.

[FR Doc. 89-26727 Filed 11-14-90; 8:45 am]

BILLING CODE 7555-01-M

NUCLEAR REGULATORY COMMISSION

[Docket Nos. 50-361 and 50-362]

Southern California Edison Co., et al.; San Onofre Nuclear Generating Station, Units 2 and 3; Environmental Assessment and Finding of No Significant Impact

The U.S. Nuclear Regulatory Commission (the Commission) is considering issuance of amendments to Facility Operating Licenses No. NPF-10 and No. NPF-15 issued to Southern California Edison Company, San Diego Gas and Electric Company, the City of Riverside, California and the City of Anaheim, California (the licensees) for operation of San Onofre Nuclear Generating Station, Units 2 and 3, located in San Diego County, California.

Environmental Assessment

Identification of Proposed Action

The proposed amendments would revise the following Technical Specifications (TS) to increase the interval for the 18-month surveillance tests to at least once per refueling interval, which is defined as 24 months, in support of the nominal 24-month fuel cycle:

- TS 3/4.1.3.3, "Position Indicator Channel—Shutdown."
- TS 3/4.3.1, "Reactor Protective Instrumentation."
- TS 3/4.3.2, "Engineered Safety Features Actuation System Instrumentation."

The Need for the Proposed Action

The proposed amendments are required to prevent unnecessary plant shutdowns to perform a surveillance test which cannot be performed during plant operation.

Environmental Impacts of the Proposed Action

For each of the proposed amendments, the licensees provided analyses to demonstrate the reliability of the systems. The staff reviewed the

licensees' analyses and agrees that reliability of the systems would not be significantly degraded by extension of the surveillance intervals. Therefore, the staff has approved the proposed 24-month surveillance interval for these proposed changes.

As a result, the proposed action would not involve a significant change in the probability or consequences of any accident previously evaluated, nor does it involve a new or different kind of accident. Consequently, any radiological releases resulting from an accident would not be significantly greater than previously determined. The proposed amendments do not otherwise affect routine radiological plant effluents. Therefore, the Commission concludes that there are no significant radiological environmental impacts associated with the proposed amendments. The Commission also concludes that the proposed action will not result in a significant increase in individual or cumulative occupational radiation exposure.

With regard to nonradiological impacts, the proposed amendments do not affect nonradiological plant effluents and have no other environmental impact. Therefore, the Commission concludes that there are no significant nonradiological environmental impacts associated with the proposed amendments.

The Notices of Consideration of Issuance of Amendment and Opportunity for Hearing in connection with this action were published in the *Federal Register* on February 24, 1989 (54 FR 8034, 54 FR 8036, and 54 FR 8037). No request for hearing or petition for leave to intervene was filed following these notices.

Alternatives to the Proposed Action

Since the Commission has concluded that there are no significant environmental impacts that would result from the proposed action, any alternatives with equal or greater environmental impacts need not be evaluated.

The principal alternative would be to deny the requested amendment. This would not reduce environmental impacts of plant operation and would result in reduced operational flexibility.

Alternative Use of Resources

This action does not involve the use of resources not previously considered in connection with the Final Environmental Statement related to operation of San Onofre Nuclear Generating Station, Units 2 and 3, dated April 1981 and its Errata dated June 1981.

Agencies and Persons Consulted

The NRC staff has reviewed the licensees' request that supports the proposed amendments. The NRC staff did not consult other agencies or persons.

Finding of No Significant Impact

The Commission has determined not to prepare an environmental impact statement for the proposed amendments.

Based upon the foregoing environmental assessment, the Commission concludes that the proposed action will not have a significant effect on the quality of the human environment.

For further details with respect to this action, see the applications for amendments dated April 26 and December 19, 1988, which are available for public inspection at the Commission's Public Document Room, 2120 L Street NW., Washington, DC 20555, and at the General Library, University of California, P.O. Box 19557, Irvine, California 92713.

Dated at Rockville, Maryland, this 6th day of November, 1989.

For the Nuclear Regulatory Commission,
George W. Knighton,
Director, Division of Reactor Projects—III, IV,
V and Special Projects, Office of Nuclear
Reactor Regulation.

[FR Doc. 89-26796 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

Advisory Committee on Nuclear Waste; Meeting

The Advisory Committee on Nuclear Waste (ACNW) will hold a working group meeting at the Center for Nuclear Waste Regulatory Analyses on Thursday, November 30, 1989, 8:30 a.m.—12:00 Noon. The meeting will be held in the auditorium of the Administration Building, South West Research Institute, 6220 Culebra Road, San Antonio, TX.

The purpose of the meeting will be to review and discuss the projects currently underway at the Center and those planned in the future. This meeting will be open to the public.

Procedures for the conduct of and participation in ACNW meetings were published in the Federal Register on June 6, 1988 (53 FR 20699). In accordance with these procedures, oral or written statements may be presented by members of the public, recordings will be permitted only during those portions of the meeting when a transcript is being kept, and questions may be asked only by members of the Committee, its consultants, and Staff. The Office of the

ACRS is providing Staff support for the ACNW. Persons desiring to make oral statements should notify the Executive Director of the Office of the ACRS as far in advance as practicable so that appropriate arrangements can be made to allow the necessary time during the meeting for such statements. Use of still, motion picture and television cameras during this meeting may be limited to selected portions of the meeting as determined by the ACNW Chairman. Information regarding the time to be set aside for this purpose may be obtained by a prepaid telephone call to the Executive Director of the Office of the ACRS, Mr. Raymond F. Fraley (telephone 301/492-4516), prior to the meeting. In view of the possibility that the schedule for ACNW meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the ACRS Executive Director if such rescheduling would result in major inconvenience.

Dated: November 8, 1989.

John C. Hoyle,
Advisory Committee Management Officer.

[FR Doc. 89-26794 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

Biweekly Notice Applications and Amendments to Operating Licenses Involving No Significant Hazards Considerations

I. Background

Pursuant to Public Law (P.L.) 97-415, the Nuclear Regulatory Commission (the Commission) is publishing this regular biweekly notice, P.L. 97-415 revised section 189 of the Atomic Energy Act of 1954, as amended (the Act), to require the Commission to publish notice of any amendments issued, or proposed to be issued, under a new provision of section 189 of the Act. This provision grants the Commission the authority to issue and make immediately effective any amendment to an operating license upon a determination by the Commission that such amendment involves no significant hazards consideration, notwithstanding the pendency before the Commission of a request for a hearing from any person.

This biweekly notice includes all notices of amendments issued, or proposed to be issued from October 23, 1989 through November 3, 1989. The last biweekly notice was published on November 1, 1989 (54 FR 46138).

NOTICE OF CONSIDERATION OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The Commission has made a proposed determination that the following amendment requests involve no significant hazards consideration. Under the Commission's regulations in 10 CFR 50.92, this means that operation of the facility in accordance with the proposed amendments would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety. The basis for this proposed determination for each amendment request is shown below.

The Commission is seeking public comments on this proposed determination. Any comments received within 30 days after the date of publication of this notice will be considered in making any final determination. The Commission will not normally make a final determination unless it receives a request for a hearing.

Written comments may be submitted by mail to the Regulatory Publications Branch, Division of Freedom of Information and Publications Services, Office of Administration, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and should cite the publication date and page number of this Federal Register notice. Written comments may also be delivered to Room P-223, Phillips Building, 7920 Norfolk Avenue, Bethesda, Maryland from 7:30 a.m. to 4:15 p.m. Copies of written comments received may be examined at the NRC Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC. The filing of requests for hearing and petitions for leave to intervene is discussed below.

By December 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2.

Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding, and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also provide references to those specific sources and documents of which the petitioner is aware and on which the

petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

If a hearing is requested, the Commission will make a final determination on the issue of no significant hazards consideration. The final determination will serve to decide when the hearing is held.

If the final determination is that the amendment request involves no significant hazards consideration, the Commission may issue the amendment and make it immediately effective, notwithstanding the request for a hearing. Any hearing held would take place after issuance of the amendment.

If the final determination is that the amendment involves a significant hazards consideration, any hearing held would take place before the issuance of any amendment.

Normally, the Commission will not issue the amendment until the expiration of the 30-day notice period. However, should circumstances change during the notice period such that failure to act in a timely way would result, for example, in derating or shutdown of the facility, the Commission may issue the license amendment before the expiration of the 30-day notice period, provided that its final determination is that the amendment involves no significant hazards consideration. The final determination will consider all public and State comments received before action is taken. Should the Commission take this action, it will publish a notice of issuance and provide for opportunity for a hearing after issuance. The Commission expects that the need to take this action will occur very infrequently.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission,

Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the presiding Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

For further details with respect to this action, see the application for amendment which is available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

Arizona Public Service Company, et al.,
Docket Nos. STN 50-528, STN 50-529
and STN 50-530, Palo Verde Nuclear
Generating Station (PVNGS), Units 1, 2
and 3, Maricopa County, Arizona

Date of amendment request: October 10, 1989

Description of amendment request:
The proposed amendments would modify the Technical Specifications (Appendix A to Facility Operating License Nos. NPF-41, NPF-51 and NPF-74 of PVNGS Units 1, 2 and 3 respectively), Section 3.3.2, "Engineered Safety Features Actuation System (ESFAS) Instrumentation." One of the requirements of this specification is that the turbine-driven Auxiliary Feedwater Pump (AFW) pump must be periodically tested for ESFAS response time. The proposed amendments would exclude this pump from ESFAS response time testing until Mode 3 conditions are

reached. This exclusion is similar to that which is already provided under Limiting Condition for Operation (LCO) 3.7.1.2 which allows for entry into Mode 3 to perform the operability test on the turbine-driven AFW pump.

Basis for Proposed No Significant Hazards Consideration Determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendments against these standards and has provided the following discussions:

Standard 1—Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed Technical Specification change will not result in a significant increase in the probability or consequences of any accidents previously evaluated. The change involves the addition of an exemption from Specification 4.0.4 for ESFAS response time testing of the turbine-driven AFW pump. This would allow for entry into Mode 3 prior to performing the response time testing. In Mode 3, the proper plant conditions exist for performing the testing of this pump. The proposed change does not impact the probability of occurrence of any initiating event for previously analyzed accidents. Additionally, the proposed change will provide consistency between the different Technical Specifications. LCO 3.7.1.2 currently provides a 4.0.4 exemption which allows the unit to enter Mode 3 prior to establishing operability of this pump. Therefore, this change will not affect the current operability requirements for the turbine-driven AFW pump.

Standard 2—Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed change will not create the possibility of a new or different kind of accident from any accident previously analyzed. No physical modifications are being made to the existing plant equipment. The turbine-driven AFW pump cannot be properly tested until the appropriate conditions are reached in the secondary plant. This occurs in Mode 3. This testing limitation is already incorporated into LCO 3.7.1.2 but was not incorporated into LCO 3.3.2. Therefore, this change will provide consistency between the LCOs and incorporate a previously recognized testing limitation.

Standard 3—Involve a significant reduction in a margin of safety.

The proposed change will not involve a significant reduction in a margin of safety. The change extends an allowance that is already provided for in the Technical Specifications. Per LCO 3.7.1.2, operability of the turbine-driven AFW pump must be established prior to Mode 2 entry. This same operability requirement should be applied to the ESFAS response time testing requirements of LCO 3.3.2.

The staff has reviewed the licensee's no significant hazards analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room location: Phoenix Public Library, Business and Science Division, 12 East McDowell Road, Phoenix, Arizona 85004.

Attorney for licensees: Mr. Arthur C. Gehr, Snell & Wilmer, 3100 Valley Center, Phoenix, Arizona 85007.

NRC Project Director: George W. Knighton

Commonwealth Edison Company, Docket Nos. 50-237 and 249, Dresden Nuclear Power Station, Unit Nos. 2 and 3, Grundy County, Illinois

Date of application for amendment request: September 29, 1989

Description of amendment request: Commonwealth Edison Company (CECo) has proposed changes to the Dresden Units 2 and 3 Technical Specifications (TS) to reflect modifications to the Standby Liquid Control System (SLCS) and the addition of a Recirculation Pump Trip (RPT), which have previously been implemented to comply with the requirements of the Anticipated Transient Without Scram (ATWS) Rule (10 CFR 50.62).

The proposed TS changes related to the SLCS would: (1) replace the boron concentration curve (Figure 3.4.1) with a minimum allowable volume of 3605 gallons and a minimum concentration of 14 weight percent to satisfy the requirement of equivalent capacity of 86 gpm at 13 weight percent; (2) change the SLCS pump flow rate from 39 to 40 gpm for each pump so a total of 80 gpm would be provided when both pumps are running; (3) add a tank suction operability test to demonstrate the suction lines are not plugged; (4) increase the system pressure relief setpoint to reflect increased pump discharge pressure during two pump operation; (5) increase the sodium pentaborate solution saturation temperature from 59° F to 62° F to reflect the weight percent increase in sodium pentaborate and (6) modify the Bases section of the TS to support the above changes.

The proposed TS changes related to the RPT system would: (1) add Section 3.2.H "Recirculation Pump Trip Initiation" which outlines the Limiting Conditions for Operation requirements for this trip function; (2) add Table 3.2.7 "Instrumentation that Initiates Recirculation Pump Trip" which contains operability requirements and trip levels for the RPT system; (3) add Table 4.2.5 "Minimum Test and Calibration Frequency for the Recirculation Pump Trip System" which contains the calibration frequency for the RPT instrumentation; and (4) modify the Bases section of the TS to support the above changes.

These changes are consistent with the modifications made by CECo to satisfy the requirements of the ATWS Rule which have been previously approved by the NRC staff.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee addressed the above three standards in the amendment application as follows:

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated because:
a. The proposed SBLC related changes clarify the design basis and maintain the total amount of boron injection previously required by the TS thereby maintaining the previous shutdown reactivity capability. The proposed changes are needed to reflect implementation of 10 CFR 50.62 and have no impact on systems or equipment that could potentially initiate or increase the probability of an accident.

b. The RPT functions are diverse from the reactor protection system. Failure of these functions will, in no way, impact the ability of the reactor protection system to safely shut down the reactor. Analyses of anticipated transients and accident conditions have incorporated the RPT on high pressure. The low-low reactor water level RPT does not affect LOCA analyses which conservatively assume the pumps trip immediately

(independent of ATWS RPT), while the ATWS trip has an associated nine second delay. Therefore, the probability or consequences of previously evaluated accidents is unchanged by the proposed amendment.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated because:

a. The SBLC related changes involve a system whose only function is to provide a backup shutdown capability. The changes do not affect any systems or equipment which could initiate an accident.

b. The primary purpose of the RPT function is to provide a means to quickly reduce reactor power in the event the reactor protection system fails during an anticipated transient. Since this system acts as a backup to RPS and functions independently from it, no new accident scenario exists. As a result, the proposed amendment does not create a new or different kind of potential accident scenario.

(3) Involve a significant reduction in the margin of safety because:

a. The overall shutdown reactivity capability (i.e., total boron injection) of the SBLC system is not reduced by these changes. The proposed amendment reflects modifications which have increased the SBLC system injection rate, thereby increasing the margin of safety for ATWS.

b. The margin of safety is assured by operating within the Limiting Conditions for Operation defined in the TS. Cycle specific reload analyses for various pressurization transients, as well as accidents conditions, are performed to establish these operating limits. The RPT on high reactor pressure has been included as input to these analyses. The RPT on low-low reactor water level does not affect LOCA analyses since it is conservatively assumed that pumps trip immediately (independent of ATWS RPT), whereas the ATWS trip has an associated nine second delay.

The NRC staff has reviewed the licensee's no significant hazards considerations determinations and since neither the SBLC or RPT related changes involve a reduction in safety margins the staff finds it acceptable. Accordingly, the Commission proposes to determine that the change does not involve any significant hazards consideration.

Consumers Power Company, Docket No. 50-255, Palisades Plant, Van Buren County, Michigan

Date of amendment request:
September 21, 1988

Description of amendment request:
This proposed license amendment would modify the Palisades Plant

Technical Specifications (TS) to remove the organization charts following the guidance provided in the Commission's Generic Letter 88-06. The proposed amendment would also make various administrative changes to Section 6.0 of the TS.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed change against the above standards as required by 10 CFR 50.91(a). The Commission's staff has reviewed the licensee's evaluation and agrees with it. The licensee concluded that:

(1) The changes do not involve a significant increase in the probability or consequences of an accident previously evaluated (10 CFR 50.92(c)(1)) because those requirements necessary for safe operation relative to organization management functions and position qualifications have been retained in the TS. The changes do not eliminate or alter the functions previously reviewed and do not affect plant operation and design.

(2) The changes do not create the possibility of a new or different kind of accident from any accident previously evaluated (10 CFR 50.92(c)(2)) because the proposed change is administrative in nature. No physical alterations to the plant or changes affecting plant operation and design are included. The changes create no new accident mode.

(3) The changes do not involve a significant reduction in a margin of safety (10 CFR 50.92(c)(3)) because, as stated in (1) above, requirements necessary for safe plant operation have been retained in the TS. Further, the changes are consistent with the requirements established in previous organization evaluations. An established licensee quality assurance program provisions provide additional controls to assure safe operation.

Similar changes have previously been reviewed on a generic basis and were found acceptable, as documented in Generic Letter 88-06. The changes

proposed by the licensee are consistent with the guidance contained in GL 88-06. The staff has reviewed the licensee's no significant hazards consideration determination analysis. Based on this review, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room location: Van Zoeren Library, Hope College, Holland, Michigan 49423.

Attorney for licensee: Judd L. Bacon, Esq., Consumers Power Company, 212 West Michigan Avenue, Jackson, Michigan 49201.

NRC Project Director: John Thoma, Acting.

Duke Power Company, et al., Docket Nos. 50-413 and 50-414, Catawba Nuclear Station, Units 1 and 2, York County, South Carolina

Date of amendment request: October 28, 1987, as supplemented October 30, 1989.

Description of amendment request: The request proposes eighteen changes to the Technical Specifications (TS) for the Catawba Nuclear Station, Units 1 and 2. Those changes are: (1) revisions to page numbers to reflect previously issued Technical Specification amendments (supplemented by October 30, 1989, submittal); (2) the addition of the word "doghouse" to item 4.d in Table 3.3-3 to clarify the number of Engineered Safety Features Actuation System (ESFAS) channels located in each doghouse structure; (3) a clarification to item 6.e. in Table 3.3-3 to identify the ESFAS channels required for trip; (4) changes to TS 3.4.4 to maintain consistency with the applicability of the TS 3.4.4 Limiting Condition for Operation (LCO) and with other TS LCOs; (5) a change to TS 3.7.1.5 to replace the word "demonstrate" with the word "verify" given the applicability of this LCO to the passive Standby Nuclear Service Water Pond; (6) the addition of the word "path" to TS 4.7.1.2.12 to clarify the associated Surveillance Requirements; (7) changes to TS 4.7.12 to indicate the groundwater monitor wells encircle both the Unit 1 and Unit 2 Reactor and Auxiliary Buildings; (8) the addition of a footnote to TS 4.8.1.1.2a to clarify "STAGGERED TEST BASIS"; (9) the deletion of the word "minimum" from TS 4.8.1.1.2g, item 12, to clarify the requirements of the time delay; (10) an update to Figures 5.1-1, 5.1-3, and 5.1-4 to more accurately reflect the site configuration; (11) changes to TS 6.2.2.f to reflect the current shift rotation and work hours at Catawba; (12) changes to TS 6.2.3.1 and

6.2.3.4 to indicate the new title of the individual in charge of the Nuclear Safety Review Board (NSRB); (13) a change to TS 6.4.1 to identify the new position of Manager, Station Training Services; (14) a change to TS 6.4.1 to identify that the Catawba Safety Review Board is not directly involved in the Operating Experience Program; (15) a change to TS 6.4.1 to correct a printing error; (16) changes to TS 6.5.1.6, 6.5.1.8, and 6.5.1.9 to change the title of the individual in charge of NSRB; (17) changes to TS 6.5.2.10a., b., and c. to identify the new organization and title for an Executive Vice President; and (18) changes to TS 6.9.1, 6.9.1.8, 6.9.1.9, and 6.9.2 to reflect the revision to 10 CFR 50.4 regarding communications with the NRC.

All the changes identified above with the exception of Changes (4) and (6) are covered by this notice. Change (4) regarding changes to the TS 3.4.4 Action Statements and Change (6) regarding the addition of the word "path" to TS 4.7.1.2.2 are being handled separately.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The proposed changes covered by this notice are administrative in nature and do not involve a significant hazards consideration because:

1. They do not involve a significant increase in the probability or consequences of an accident previously evaluated because these changes are administrative in nature. As such, these changes do not involve any hardware changes to the Catawba facility and do not affect the capability of the Catawba facility to preclude, mitigate, or withstand the effects of those postulated events analyzed or evaluated as part of the Catawba licensing basis.

2. They do not create the possibility of a new or different kind of accident. These administrative changes do not involve any facility design or operational changes, and therefore no new failure modes, operational configurations, or equipment vulnerabilities are introduced.

3. They do not involve a reduction in a margin of safety. As stated above, these changes do not affect the capability of the Catawba facility to preclude, mitigate, or withstand the effects of any previously analyzed event considered in the licensing basis for Catawba. Therefore, current margins of safety remain unchanged.

On this basis, the Commission has determined that the requested changes covered by this notice meet the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room
location: York County Library, 138 East Black Street, Rock Hill, South Carolina 29730

Attorney for licensee: Mr. Albert Carr, Duke Power Company, 422 South Church Street, Charlotte, North Carolina 28242

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request: August 25, 1989

Description of amendment request: The proposed amendments to the Technical Specification (TS) would revise the rod insertion limits to show the fully withdrawn position as 222 steps instead of 228 steps. The purpose of the change in the insertion limit is to allow a periodic change, within the range of 222 to 231 steps withdrawn, of the parked full out position of the control rods which will minimize the effects of control rod wear caused by fretting against upper internal control rod guide surfaces. TS 3.1.3.4, "Rod Drop Time," will also be revised to assure that control rod drop time measurements are made from the physical fully withdrawn position (231 steps withdrawn). In addition, a revision to TS 5.3.2 is being proposed that will indicate that control rods may utilize an absorber material of either hafnium or silver-indium-cadmium. The specific TS changes are as follows:

1. In TS 3.1.3.4 for control rod drop time, the word "physical" is inserted into the Limiting Condition for Operation (LCO) such that it states "The individual shutdown and control rod drop time from the physical fully withdrawn position..."

2. In TS 3.1.3.5 for shutdown rod insertion limits, the LCO is restated as "All shutdown rods shall be withdrawn

to a position greater than or equal to 222 steps" instead of "All shutdown rods shall be fully withdrawn."

In the Action statement, the phrase "not fully withdrawn" is replaced by "inserted to a position less than 222 steps," and the phrase "Fully withdraw the rod, or" is replaced by "withdraw the rod to a position greater than or equal to 222 steps, or."

3. In TS 4.1.3.5, the Surveillance Requirement for Shutdown Rod Insertion Limit, the phrase "Each shutdown rod shall be determined to be fully withdrawn;" is replaced by "Each shutdown rod shall be determined to be withdrawn to a position greater than or equal to 222 steps."

4. TS Figure 3.1-3, "Rod Bank Insertion Limits Versus Thermal Power," is replaced with a Figure that is identical except that it shows the fully withdrawn position as 222 instead of 228.

5. In TS 4.10.1.1, the phrase "each control rod either partially or fully withdrawn" is changed to "each control rod not fully inserted."

6. In the bases for TS 3/4.2.2 and 3/4.2.3, part "b" is replaced with "Control rod banks are sequenced with a constant tip-to-tip distance between banks as defined by Figure 3.1-3."

7. In TS 5.3.2, the description of the absorber composition is revised by inserting the phrase "and/or 80% silver, 15% indium, and 5% cadmium."

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendment, the licensee has determined the following:

1. The change in rod insertion limits and use of either rod material will not increase the probability of an accident previously evaluated in the FSAR. ...evaluations...above have determined that the rod drop time and other associated parameters assumed in the safety analyses have not changed. Additionally, there are no new failure modes introduced that would increase the probability of any reactivity anomaly occurring. Therefore, all current safety

analyses will remain valid with these changes.

The change in rod insertion limits and use of either rod material will not increase the consequences of an accident previously evaluated in the FSAR. It has been determined that all safety related design criteria have been met assuming these changes. These changes will have minimal impact on core behavior and will not require any setpoint changes nor will the operability of the units be affected. Future reload safety evaluations will review the ARO position to assure continued conformance with the design parameters.

2. The change in rod insertion limits and use of either rod material will not create the possibility of a new or different kind of accident from any accident previously evaluated in the FSAR. No new failure mechanisms or new limiting single failures have been identified as a result of these changes.

3. The change in rod insertion limits and the use of either rod material will not decrease the margin of safety in the bases to any Technical Specification. Since it has been determined that all accident analysis acceptance criteria and design and performance requirements continue to be met, there is no reduction to any previously defined margin of safety in the Technical Specifications.

The Commission's staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room
location: Burke County Public Library,
412 Fourth Street, Waynesboro, Georgia
30830.

Attorney for licensee: Mr. Arthur H. Dombey, Troutman, Sanders, Lockerman and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket Nos. 50-424 and 50-425, Vogtle Electric Generating Plant, Units 1 and 2, Burke County, Georgia

Date of amendment request:
September 26, 1989

Description of amendment request:
The proposed amendments would revise Technical Specification (TS) 3.1.1.3, "Moderator Temperature Coefficient," to allow operation of Unit 2 with a slightly positive moderator temperature coefficient (MTC) below 100% power. The current TS requires a negative value for Unit 2 MTC at all power levels.

Basis for proposed no significant hazards consideration determination:
The Commission has provided

standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

In regard to the proposed amendments, the licensee has determined the following:

1. The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated. The proposed change allows operation of Unit 2 with a slightly positive MTC below 100% power. An identical change has been approved by the NRC for Unit 1. The change does not affect equipment involved in the initiation of previously evaluated accidents; hence, the probability of such accidents is not increased. The consequences of previously evaluated accidents have either been re-evaluated or re-analyzed with the assumption of a positive MTC. The consequences were either bounded by previous analyses or increased by an insignificant amount. In all cases, the results were within the applicable design and safety criteria and the conclusions reached in the FSAR remain valid.

2. The proposed change does not create the possibility of a new or different kind of accident from any accident previously evaluated. The change does not introduce any new equipment into the plant or require any existing equipment to be operated in a different manner from which it was designed to operate. Since the change does not introduce a new failure mode, a new or different kind of accident is not made possible.

3. The proposed change does not involve a significant reduction in a margin of safety. The change does not affect any safety limit or limiting safety system settings. An evaluation has been performed to determine the effect of a positive MTC on the FSAR transient and accident consequences. The applicable design and safety criteria continue to be met, the conclusions reached in the FSAR remain valid, and safety margins are not significantly reduced.

The Commission's staff has reviewed the licensee's determination and concurs with its findings.

Accordingly, the Commission proposes to determine that the proposed change involves no significant hazards consideration.

Local Public Document Room
location: Burke County Public Library,
412 Fourth Street, Waynesboro, Georgia
30830.

Attorney for licensee: Mr. Arthur H. Dombey, Troutman, Sanders, Lockerman

and Ashmore, Candler Building, Suite 1400, 127 Peachtree Street, NE., Atlanta, Georgia 30043.

NRC Project Director: David B. Matthews

Georgia Power Company, Oglethorpe Power Corporation, Municipal Electric Authority of Georgia, City of Dalton, Georgia, Docket No. 50-366, Edwin I. Hatch Nuclear Plant, Unit 2, Appling County, Georgia

Date of amendment request: August 22, 1989

Description of amendment request:
The amendment would correct two pages of the Unit 2 Technical Specifications (TS) to incorporate changes that were previously approved by Amendment 100 to the TS but which were not properly incorporated in the TS pages issued with Amendment 100.

Basis for proposed no significant hazards consideration determination:
The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The changes requested by the licensee in the August 22, 1989 submittal are administrative in nature, merely conforming the pages to changes that previously were reviewed by the Commission's staff and approved by Amendment 100 to the Unit 2 license. Thus, the requested changes would not involve a significant increase in the probability or consequences of an accident previously evaluated, would not create the possibility of a new or different kind of accident from any accident previously evaluated, and would not involve a significant reduction in a margin of safety.

On this basis, the Commission has determined that the requested amendment meets the three standards and, therefore, proposes to determine that the amendment application does not involve a significant hazards consideration.

Local Public Document Room
location: Appling County Public Library,
301 City Hall Drive, Baxley, Georgia
31513

Attorney for licensee: Bruce W. Churchill, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: David B. Matthews

GPU Nuclear Corporation, et al., Docket No. 50-219, Oyster Creek Nuclear Generating Station, Ocean County, New Jersey

Date of amendment request: October 11, 1989, supplemented October 26, 1989

Description of amendment request: This amendment would revise Technical Specification 6.0 as follows:

- a. Organization charts on pages 6-3, 6-4 and 6-5 are deleted.
- b. Section 6.2: Deleted organization charts; delineated corporate responsibility for overall plant nuclear safety to President—GPUN; and delineated responsibility for onsite activities necessary for safe operation and maintenance of the plant to Vice President & Director, Oyster Creek.
- c. Section 6.3: Deleted plant specific titles and referenced ANSI/ANS 3.1 of 1978 to specify minimum qualifications for comparable positions. Incorporated the qualifications for the shift technical advisor into Section 6.3.3.
- d. Section 6.4: Revised to reflect revised 10 CFR Part 55 and substituted a comparable title responsible for training of the licensed operators and Fire Brigade.
- e. Sections 6.5.1 and 6.5.2.1: Revised to reflect deletion of the organization charts.
- f. Section 6.5.3.1: Revised to reflect an organizational change and substituted a comparable title.
- g. Section 6.5.3.2: Substituted a comparable title for the GPUN title of Vice President—Technical Functions.
- h. Section 6.5.4: Substituted comparable titles for GPUN titles.
- i. Section 6.9.3: Revised location to which reports are sent.
- j. Section 6.13.1: Substituted a comparable title for the GPUN title.

Basis for proposed no significant hazards consideration determination: As required by 10 CFR 50.91(a), GPU Nuclear Corporation performed an analysis of the requested amendment and concluded that:

- a. The proposed change is similar to example (i) of the "Amendments Not Likely to Involve Significant Hazards Consideration" from the Federal Register Vol. 48, No. 67 at 14870 on April 6, 1983.
- b. The proposed change is considered an administrative change. The Technical Specification Change Request does not involve significant hazards consideration as stated below.

(1) Involve a significant increase in the probability or consequences of an accident previously evaluated.

The proposed change does not involve a significant increase in the probability or consequences of an accident previously evaluated because deletion of the organization charts, and position titles from the Technical Specifications does not affect plant operation. As in the past, the NRC will continue to be informed of organizational changes through other required controls. In accordance with 10 CFR 50.34 (b)(6)(i) the applicant's organizational structure is required to be included in the Updated Final Safety Analysis Report. Chapter 13 of the Updated Final Safety Analysis Report provides a description of the organization and detailed organization charts.

As required by 10 CFR 50.71 (e) GPUN submits annual updates to the Updated FSAR. Appendix B to 10 CFR Part 50 and 10 CFR 50.54 (a)(3) govern changes to organization described in the Quality Assurance Program. Some of these organizational changes require prior NRC approval. Also, it is GPUN's practice to inform the NRC of organizational changes affecting the nuclear facilities prior to implementation.

(2) Create the possibility of a new or different kind of accident from any accident previously evaluated.

The proposed amendment does not create the possibility of a new or different kind of accident than previously evaluated because the proposed change is administrative in nature, and no physical alterations of plant configuration or changes to setpoints or operating parameters are proposed.

(3) Involve a significant reduction in a margin of safety.

The proposed amendment does not involve a significant reduction in a margin of safety because GPUN, through its Quality Assurance program committed, to maintain qualified personnel in positions of responsibility. Therefore, removal of the organization charts and plant specific personnel qualifications from the Technical Specifications will not affect the margin of safety.

The staff has reviewed the proposed amendment and agrees with the licensee's determination that it does not involve a significant hazards consideration.

Local Public Document Room location: Ocean County Library, Reference Department, 101 Washington Street, Toms River, New Jersey 08753

Attorney for licensee: Ernest L. Blake, Jr., Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John F. Stolz

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: January 27, 1986 and supplemented December 21, 1988.

Description of amendments request: The proposed amendment would allow the logic for the reactor coolant pump breaker position (RCPBP) trip above permissive P-8 to be changed from one out of four breakers open to two out of four breakers open. The purpose of the change is to remove a potential source of single failure unit trips and provide a reduction in challenges to the reactor protection system (RPS).

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). The licensee has determined and the staff agrees that the proposed amendment will not:

1. Involve a significant increase in the probability or consequences of an accident previously analyzed.

The one out of four RCPBP trip above P-8 is not required for safety but is instead provided as a redundant anticipatory trip for impending loss of reactor coolant flow and is intended to enhance the overall reliability of the RPS. No credit is taken for this trip in the safety analysis for either Unit 1 or Unit 2. The design protection for the single loop loss of flow event is the low flow reactor trip. The updated FSAR analysis is for the single loop loss of flow event that assumes that the reactor is tripped by the low flow reactor trip and shows that the DNBR remains above applicable limits during the event. Since no credit is taken for the RCPBP trip, the proposed change to this trip will not impact the safety analysis for the Cook Nuclear Plant and will, therefore, not increase the probability or consequences of an accident previously evaluated.

2. Create the possibility of a new or different kind of accident from any accident previously evaluated, or

As noted in Criterion 1, the one out of four RCPBP trip above P-8 is not required for safety but is provided as a redundant anticipatory trip to enhance the overall reliability of the RPS. In addition, Westinghouse has concluded that the change does not degrade the performance of the reactor protection system or its conformance to system functional requirements and that the diversity and redundancy of the system is maintained for the single loop loss of flow event. The licensee concludes and the staff agrees that the proposed change will not create the possibility of a new or different kind of accident than any previously evaluated.

3. Involve a significant reduction in a margin of safety. The proposed

modification to the RCPBP trip affects only the coincidence logic of the reactor protection system and does not degrade either its performance or conformance to system functional requirements. In addition, Westinghouse has concluded that the diversity and redundancy of the reactor protection system is maintained for the single loop loss of flow event. We, therefore, conclude that the proposed change will not significantly decrease a margin of safety.

The Commission has provided guidance concerning the determination of no significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve significant hazards consideration. The sixth of these examples refers to changes which may result in some increase to the probability or consequences of a previously analyzed accident, but the results of which are within limits established as acceptable. Based on the licensee's arguments, the staff has made a proposed determination that the application for amendment involves no significant hazards consideration.

Local Public Document Room
location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company,
Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request:
February 25, 1988

Description of amendments request:
The licensee proposes to delete Specification 6.4.2, which requires compliance with Section 27 of the 1976 edition of the NFPA code. The NFPA code specifies that fire brigade training be conducted on a monthly basis, whereas guidance provided by the NRC specifies that fire brigade training need only be conducted on a quarterly basis. This change would also be consistent with the most recent version of the Westinghouse Standard TS.

Basis for proposed no significant hazards consideration determination:
According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated,

The proposed deletion of the Specification 6.4.2 from TS is intended to alleviate the inconsistency between TS requirements for fire brigade training and the requirements of Standard TS (STS) and the current fire brigade training program. An increase in the probability or consequence of an accident previously evaluated due to the decreased frequency of fire brigade training, if it existed, would be insignificant. Fire brigade training conducted on a quarterly basis is consistent with NRC guidance and STS and will produce a similar level of skill and knowledge as would result from monthly training.

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

The change introduces no new operating conditions or changes on the fire brigade function. The current plant fire brigade training will continue to be conducted on a quarterly basis. Therefore, the possibility of a new or different kind of accident from any previously evaluated does not exist.

(3) involve a significant reduction in a margin of safety.

As discussed for criterion (1), fire brigade training conducted on a quarterly basis is consistent with NRC guidance and STS and, therefore, should be sufficient to ensure effective fire moderation response. If a reduction in a margin of safety did exist as a result of this change it would not be significant.

The staff has reviewed the licensee's no significant hazards consideration analysis and concurs with their conclusions. As such, the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room
location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company,
Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: March 14, 1989

Description of amendments request:
Technical Specification (TS) 6.12.2 requires that locked doors be provided to prevent unauthorized entry into high radiation areas in which the intensity of radiation is greater than 1000 mrem/hr. The licensee is proposing to allow the

posting of a designated individual to serve as a substitute for a locked door in those instances in which providing a locked door is not possible or not practical due to area size or configuration.

Basis for proposed no significant hazards consideration determination:
According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

(1) involve a significant increase in the probability or consequences of an accident previously evaluated,

(2) create the possibility of a new or different kind of accident from any accident previously evaluated, or

(3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the criteria of 10 CFR 50.92, and has determined the following:

Criterion 1

Changing the access control requirements for high radiation areas does not impact previously analyzed accidents. Therefore, this change will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Criterion 2

The proposed change does not involve a change in plant configuration or operation and will not place the plant in an unanalyzed condition; therefore, the change will not create the possibility of a new or different kind of accident from any previously evaluated.

Criterion 3

Posting a designated individual is equivalent to or better than the alternative (flashing lights) allowed by the Westinghouse Standard TS and the TS of some other nuclear plants. Based on this and on the belief that the designated individual will provide adequate protection against unauthorized entry, the change will not involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the determination of no significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve significant hazards consideration. Example six in the above guidance is an example of a proposed change that is less likely to involve a significant hazards consideration. Specifically, the proposed change will not result in an increase in the probability or consequences of a previously analyzed accident or reduce a safety margin, since posting a designated individual will provide adequate protection against unauthorized entry for those instances for which providing a locked enclosure is not possible or not practical. Therefore, this change does not involve

a significant hazards consideration as defined in 10 CFR 50.92.

Local Public Document Room

Location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085.

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John Thoma, Acting.

Indiana Michigan Power Company, Dockets Nos. 50-315 and 50-316, Donald C. Cook Nuclear Plant, Units Nos. 1 and 2, Berrien County, Michigan

Date of amendments request: August 25, 1989

Description of amendments request: The proposed amendment would revise Section 6.0 (Administrative Controls) of the TS to reflect changes to the responsibilities of the Plant Nuclear Safety Review Committee (PNSRC) and the Nuclear Safety and Design Review Committee (NSDRC). The amendment will reflect title changes and improve the overall consistency and clarity of the existing TS. TS 6.1.2 is being added which places an additional restriction on the Cook Nuclear Plants by requiring the Shift Supervisor or a designated individual during his absence to be responsible for the control room command function.

Proposed changes to TS 6.2.2.b and Table 6.2.1 are being made in order to comply with the requirements of 10 CFR 50.54(m). The proposed TS will require at least one licensed Senior Operator to be in the control room when the facility is in Modes 1, 2, 3 and 4, and will meet the minimum licensed operator staffing requirement that three Senior Operators be on site.

A footnote has been added to TS 6.2.2.d and 6.2.2.f. This change would allow up to two hours for the unexpected absence of an individual qualified in radiation protection procedures and the unexpected absence of the minimum composition of fire brigade members.

The proposed changes to TS 6.3.1, 6.4.1, 6.5.2.3, 6.5.2.9, 6.5.2.10.a, 6.5.2.10.b, and 6.5.2.10.c involve necessary title changes (e.g., "Plant Health Physics Supervisor" to "Plant Radiation Protection Manager").

The proposed changes to TS 6.5.1.2, 6.5.1.3, 6.5.1.5 affect the qualifications, structure, and quorum of the PNSRC. The proposed change to TS 6.5.1.2 is to add the minimum qualifications that the PNSRC members and alternate members must meet. Members and alternate will meet or exceed the minimum qualifications of ANSI N18.1-1971,

Section 4.4. This change would establish the PNSRC as a more independent advisory organization to the Plant Manager, instead of requiring the Plant Manager's direct involvement in the work activities of the PNSRC. This change requires that TS 6.5.1.3 be revised since the PNSRC Chairman would no longer appoint the alternate members. Proposed changes to TS 6.5.1.5 clarify the requirements for a quorum of the PNSRC.

The proposed changes to TS 6.5.1.6.a, b, c clarify the subject areas that the PNSRC will review. Specifically, the PNSRC will only perform reviews of subjects that could affect plant nuclear safety or involve an unreviewed safety question.

The proposed change to TS 6.5.1.7.c will require the Vice President—Nuclear Operations to be notified, in addition to the NSDRC, of any disagreements between the PNSRC and the Plant Manager.

A proposed change to TS 6.5.2.7.a would eliminate the review by the NSDRC of the safety evaluations of lower-tier plant procedures.

A proposed change to TS 6.5.2.8.h, i, and j (TS 6.5.2.8.g and h on the proposed revised pages) clarifies the NSDRC audit requirements on fire protection.

The proposed TS 6.5.3, "Technical Review and Control," has been added to the administrative controls section to ensure that activities affecting nuclear safety will continue to be adequately controlled and that technical reviews will be performed once these activities are removed from the PNSRC responsibilities.

Proposed changes to TS 6.0.1 and TS 6.7.1 clarify the actions to be taken for reportable events and the proposed change to Specification 6.8.2 specifies that temporary changes shall be reviewed prior to implementation.

An additional requirement to include documentation of all challenges to the PORV's is proposed to be added to the monthly reactor operating report (TS 6.9.1.10).

The proposed amendment would also make some minor editorial changes that do not change the intent or meaning of the TS.

Basis for proposed no significant hazards consideration determination: According to 10 CFR 50.92, a proposed amendment will not involve a significant hazards consideration if the proposed amendment does not:

1. involve a significant increase in the probability or consequences of an accident previously evaluated,
2. create the possibility of a new or different kind of accident from any accident previously evaluated, or

3. involve a significant reduction in a margin of safety

The licensee has evaluated the proposed amendment against the standards of 10 CFR 50.92, and has determined the following:

Criterion 1

The changes requested in this letter affect only the Administrative Controls section of the TS. We believe the revised Administrative Controls will enhance the safe operation of the Cook Nuclear Plants. Therefore, we believe these changes will not involve a significant increase in the probability or consequences of a previously evaluated accident.

Criterion 2

These changes are purely administrative in nature. Plant systems, components, and operation will not be altered by these changes. Therefore, we believe this change will not create the possibility of a new or different kind of accident than has previously been evaluated.

Criterion 3

Since these changes are administrative in nature, they will not impact the ability of the plant systems and components to perform their safety function. Therefore, we believe these changes will not involve a significant reduction in a margin of safety.

The Commission has provided guidance concerning the determination of significant hazards consideration by providing certain examples (48 FR 14869) of amendments considered not likely to involve a significant hazards consideration. The first example is that of a purely administrative change to the TS: for example, a change to achieve consistency throughout the TS; correction of an error; or a change in nomenclature. We believe that the changes requested in this letter are of the type specified in this example. Since these changes are administrative in nature, they do not reduce a margin of safety, do not increase the probability or consequences of a previously evaluated accident, and do not introduce the possibility of a new accident.

Therefore, we believe these changes do not involve a significant hazards consideration as defined by 10 CFR 50.92.

The staff has reviewed the licensee's no significant hazards consideration analyses and concurs with their conclusions. As such the staff proposes to determine that the requested changes do not involve a significant hazards consideration.

Local Public Document Room
Location: Maude Preston Palenske Memorial Library, 500 Market Street, St. Joseph, Michigan 49085

Attorney for licensee: Gerald Charnoff, Esq., Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037

NRC Project Director: John O. Thoma, Acting.

Nebraska Public Power District, Docket No. 50-298, Cooper Nuclear Station, Nemaha County, Nebraska

Date of amendment request: August 31, 1989

Description of amendment request: The amendment would extend the duration of the Cooper Nuclear Station Operating License (DPR-46) from 40 years from the date of issuance of the Construction Permit, June 4, 1968, to 40 years from the date of issue of the Operating License, January 18, 1974. Specifically, this change would extend the expiration date of DPR-46 from June 4, 2008 to January 18, 2014.

This extension is consistent with the regulations regarding issuance of operating licenses and with actions taken by the Commission in numerous operating license applications and amendments since 1982.

Basis for proposed no significant hazards consideration determination: In accordance with the requirements of 10 CFR 50.92, the licensee has submitted the following no significant hazards determination:

1. The requested amendment will not involve a significant increase in the probability or consequences of an accident previously evaluated because the license change does not involve any changes to the physical plant or plant operating procedures.

The Cooper Nuclear Station was designed and constructed on the basis of a forty year operating life. The accidents analyzed in the Updated Safety Analysis Report and evaluated in the Safety Evaluation Report were postulated on the basis of a forty year operating life. The information and analyses presented in the Environmental Report and evaluated in the Environmental Impact Statement were not dependent on any specific period of operation. Surveillance, inspection, testing and maintenance programs are in place to sustain the condition of the plant throughout its service life.

In conclusion, the effects of forty years of plant operation have been considered in the existing design, analysis and operation of the plant and, therefore, the probability or consequences of previously evaluated accidents has not been significantly increased.

2. The requested amendment will not create the possibility of a new or different kind of accident from any previously evaluated since the license change does not affect the design or operation of the plant. Programs are in place to maintain the plant throughout its service life. For the same reasons as outlined in item 1 above, the possibility of a new or different kind of accident is not created.

3. The requested amendment will not involve a significant reduction in a margin of safety since the license change involves only a change in the expiration date of the license. The measures outlined in items 1 and 2

above, together with continued operation in accordance with the Technical Specifications assure that an adequate margin of safety is preserved on a continuous basis. An extension of the Operating License term does not result in a significant reduction in a margin of safety.

For the reasons stated above the Station Operations Review Committee and the Safety Review and Audit Board have determined that the requested license amendment does not involve a significant hazards consideration. It consists of a purely administrative change in the term of the license which is permitted by the regulations of the Commission.

Based on the previous discussion, the licensee concluded that the proposed amendment request does not involve a significant increase in the probability or consequences of an accident previously evaluated; nor create the possibility of a new or different kind of accident from any accident previously evaluated; nor involve a significant reduction in the required margin of safety. The NRC staff has reviewed the licensee's no significant hazards considerations determination and agrees with the licensee's analysis. The staff has, therefore, made a proposed determination that the licensee's request does not involve a significant hazards consideration.

Local Public Document Room location: Auburn Public Library, 118 15th Street, Auburn, Nebraska 68305.

Attorney for licensee: Mr. G.D. Watson, Nebraska Public Power District, Post Office Box 499, Columbus, Nebraska 68601.

NRC Project Director: Frederick J. Hebbon

Philadelphia Electric Company, Docket Nos. 50-352 and 50-353, Limerick Generating Station, Units 1 and 2, Montgomery County, Pennsylvania

Date of amendment request: October 11, 1989

Description of amendment request: The proposed amendments would change the Technical Specifications (TSs) for Limerick, Units 1 and 2, to specify the number of suppression chamber to drywell vacuum breaker pairs which are required to be operable as three rather than four pairs.

There are four pairs of vacuum breaker valves provided to equalize the pressure between the suppression chamber and the drywell after reactor blowdown and drywell spray actuation, while preventing bypass of the suppression pool during periods of blowdown. Previous analysis indicated that three of the four pairs were required to provide adequate vacuum relief

capability to protect the structural integrity of the containment for all postulated events. The fourth pair provided redundancy in the event that a single active failure prevented one valve in any of the three required valve pairs from opening. Reanalysis has determined that two pairs, rather than three pairs, of vacuum breaker valves are adequate to protect the structural integrity of the containment. Therefore, the licensee proposes to revise TS Limiting Condition for Operation (LCO) 3.6.4.1 to require a minimum of three pairs of operable vacuum breakers.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92(c). A proposed amendment to an operating license involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not (1) involve a significant increase in the probability or consequences of an accident previously evaluated, (2) create the possibility of a new or different kind of accident from any accident previously evaluated, or (3) involve a significant reduction in a margin of safety.

The licensee has provided an analysis of no significant hazards considerations with the request for the license amendment. The licensee's analysis of the proposed amendment against the three standards in 10 CFR 50.92 is reproduced below:

A. The proposed changes do not involve a significant increase in the probability or consequences of an accident previously evaluated.

The vacuum breaker valves perform their active safety function after an accident has occurred. Their failure to open prior to an accident cannot cause an accident to occur, nor does the operability of the vacuum breakers have any effect on the operability of other safety related equipment. The operability of the vacuum breakers can affect the consequences of an accident, since damage to the containment could occur if they did not perform their safety function. We have determined that the safety function of protecting containment integrity can be accomplished with only two flow paths operable. A redundant vacuum breaker flow path would be available in the event a single active failure disables one of the three required operable flow paths. Hence, reducing the number of flow paths required to be operable from four to three would not result in any threat to containment integrity following an accident, and therefore would not increase the consequences of an accident.

B. The proposed changes do not create the possibility of a new or different kind of accident from any accident previously evaluated.

Aside from precluding the possibility of bypass leakage, the only function the vacuum breaker valves perform is to equalize the pressure between the suppression chamber and the drywell. This function serves to protect the integrity of the containment post-LOCA and can be affected by reducing the required number of operable vacuum breaker flow paths from four to three, as is evaluated in the response to the first standard above. However, no other accident or malfunction can be created by this change. There is no change to the TS requirement that all the vacuum breaker valves be in the closed position during reactor operation.

C. The proposed changes do not involve a significant reduction in a margin of safety.

The function of the vacuum breakers is to protect the structural integrity of the containment during a drywell depressurization event. The drywell design negative pressure is -5 psig. So long as the vacuum breakers are able to maintain the drywell pressure above this value, drywell integrity is preserved, and the containment function of preventing release of radioactivity is maintained. A computer analysis using flow test data for the actual vacuum breaker valves in the actual configuration used in the plant indicates that in the event of an inadvertent drywell spray actuation, the peak negative pressure in the drywell is -4.821 psig with three operable vacuum breaker flowpaths. Repeating the analysis, but reducing the number of operable vacuum breaker flow paths from three to two, results in a calculated peak drywell negative pressure of -4.845 psig. Since the increase in the magnitude of negative containment pressure when going from three operable flow paths to two is small, and is still within the -5 psig design value, the decrease in margin of safety resulting from this change is not considered to be significant. Similarly, relative to the diaphragm slab design differential pressure of 20 psid, the increase in the peak differential pressure from 4.23 psid to 5.77 psid when going from the three flow path case to the two flow path case is not considered to be significant. Therefore, the proposed changes do not involve a significant reduction in the margin of safety.

The staff has reviewed the licensee's analysis and agrees with it. Therefore, we conclude that the amendment satisfies the three criteria listed in 10 CFR 50.92(c). Based on that conclusion, the staff proposes to determine that the proposed license amendment involves no significant hazards consideration.

Local Public Document Room
location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Attorney for licensee: Conner and Wetterhahn, 1747 Pennsylvania Avenue, NW., Washington, DC 20006

NRC Project Director: Walter R. Butler

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 31, 1989

Description of amendment request: The proposed amendment would revise Technical Specification (TS) Table 3.7-1, "Process Pipeline Penetration Primary Containment," to promote consistency with the Standard TS, to clarify the requirements, and to accurately reflect the as-built condition of the plant. The proposed changes can be divided into four categories—general, addition of valves, addition of isolation signals, and changes to the valve closure times.

The first category, General, includes such proposed changes as changing the title of the table to "Primary Containment Isolation Valves;" rearranging the table entries by penetration number; deleting the columns showing the valve type, power, group, and location; adding the valve numbers; renaming some columns to more accurately reflect the information they present; changing the isolation signal RM (Remote Manual) to R (Remote); deleting Penetration 36 since it is no longer used; changing isolation signal D to "Line break—main steam (high steam flow)," signal E to "Line break—main steam (tunnel high temperature)," and signal G to "Reactor vessel low-low water level or high drywell pressure;" adding isolation signals H (containment high radiation), M (low condenser vacuum), and X (reactor vessel low water level or high drywell pressure when both shutdown cooling suction valves are not fully closed and reactor pressure is below 75 psig); adding notes, clarifying remarks, and other editorial changes.

The second category, Valves, would upgrade the table to reflect the as-built condition of the plant by adding sixty-two valves and related information. These valves were either a part of the original plant design but inadvertently omitted in the original TS or were added as a result of post-TMI modifications in accordance with NUREG-0578 and NUREG-0737.

The third category, Isolation Valve Signals, would upgrade the table by reflecting the isolation signals applicable to certain valves which are part of the existing plant design, but either were omitted from the initial issuance of the TS or were added as a post-TMI modification.

The fourth category, Valve Closure Times, would reflect the changes made to the stroke times for the Reactor Core Isolation Cooling and the High Pressure

Coolant Injection steam line isolation valves to meet the requirements of the environmental qualification program.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed amendment against the standards provided above and has supplied the following information, which is divided into the same categories described previously.

Changes related to the first category, General:

(1) will not significantly increase the probability or consequences of an accident previously evaluated because the changes clarify the table, provide better nomenclature, and eliminate typographical errors. These changes are purely administrative in nature and do not involve changes to procedures or facility modifications and cannot increase the probability of an accident previously evaluated.

(2) will not create the possibility of a new or different kind of accident previously evaluated because the proposed general changes are administrative in nature and improve the description and function of the containment penetration table and associated notes.

(3) will not involve a significant reduction in the margin of safety because the changes are purely administrative. Valves that have been added to the table which have always been part of the FitzPatrick's original design were reviewed by the NRC in the original Final Safety Analysis Report (FSAR) submittal. These valves have always been tested and treated as containment isolation valves.

Changes related to the second category, Valves:

(1) will not significantly increase the probability or consequences of an accident previously evaluated because the added containment isolation valves will improve each system's capability to reliably isolate in the event of a postulated accident, thereby increasing the reliability of containment integrity.

The vent and purge system is an essential system and is not used in the beginning of a design bases Loss of Coolant Accident (LOCA). The system is normally isolated and

remains isolated until the operator has determined the need for its use.

Design features of the containment isolation valves, such as redundant flowpaths, will assure that the vent and purge system can perform both its containment isolation function and post-accident function assuming any postulated single-failure.

The logic for operation of the vent and purge bypass valves is fail-safe. This logic is powered from both AC and DC sources such that no single-failure can prevent purging or cause loss of containment integrity from either the drywell or the torus. This provides a fail-safe purge path from the containment under postulated accident conditions.

The added Reactor Building Closed Loop Cooling Water (RBCLCW) containment isolation valves improve system containment isolation dependability. The RBCLCW system is an essential system in the Emergency Service Water mode. The valves are designed to fail-open to assure operation of RBCLCW and Essential Service Water (ESW) Systems. The system's safety function is unchanged by this modification.

The added containment isolation valves in the hydrogen monitoring system will improve containment isolation dependability. The modification also provided an alternate flowpath to assure continuous hydrogen monitoring capability. The containment isolation valves meet the redundancy and single-failure requirements for containment isolation.

(2) will not create the possibility of a new or different kind of accident previously evaluated.

The added dedicated hydrogen vent and purge containment isolation valves will improve the systems' capability to reliably isolate in the event of a postulated accident. Spurious actuation of these containment isolation valves will not result in a plant transient, nor will it affect the plant's safe shutdown capability.

The added RBCLCW containment isolation valves will improve system containment isolation dependability. Spurious isolation of these valves and the coincident loss of drywell cooling is precluded by design features such as fail-opening of the valves on loss of instrument air or nitrogen. This will allow continuous operation of the RBCLCW and ESW systems. No new failure modes are created, nor is the safety function of the RBCLCW and ESW systems changed by the addition of these containment isolation valves.

The added containment hydrogen monitoring system lines and corresponding containment isolation valves improve hydrogen monitoring capability and containment isolation. Spurious actuation of these containment isolation valves will result in the partial loss of hydrogen/oxygen indication. This will not result in a plant transient nor affect the plant's safe shutdown capability.

The added containment isolation valves are arranged in series, two valves located outside of containment for each of two redundant sample lines. Both valves on each line are powered from the same source. This arrangement assures that the failure of one power source will not disable both sample

lines. Spurious opening of these valves is precluded by design features such as fail-close by spring force. No different failure modes are created, nor is the safety function of the hydrogen monitoring system changed by the addition of these containment isolation valves.

(3) will not involve a significant reduction in the margin of safety.

The modification to the dedicated hydrogen vent and purge system does not reduce the margin of safety because: 1) the modification improves upon redundancy and single-failure requirements for containment isolation; and 2) the logic to the individual override controls is fail-safe for the vent/purge valves.

The added RBCLCW containment isolation valves will improve safety by increasing containment isolation dependability. The RBCLCW piping is the first barrier for containing postulated radioactive releases. Prior to the installation of these new containment isolation valves, this was the primary barrier for containment isolation. The safety function of the RBCLCW system is not changed by the addition of these containment isolation valves. Design features such as fail-opening of the valves will assure system operation during and after an accident.

The added containment hydrogen monitor system lines and corresponding isolation valves do not reduce the margin of safety because: 1) containment isolation meets single-failure requirements through fail-safe logic; and 2) hydrogen monitoring has redundant flowpaths.

The modification increases safety because of the added ability to sense high drywell radiation and isolate the primary containment after a postulated accident. The addition of signal "H" (containment high radiation) increases the redundancy and diversity of physical parameters sensed to isolate the containment in the event of an accident. This provides additional assurance that releases during an accident are minimized.

The changes related to the fourth category, Valve Closure Times:

(1) will not involve a significant increase in the probability or consequences of an accident previously evaluated because the decreased stroke time is still within the design capabilities of the valves and valve operators. Decreased valve closure time will not significantly affect the design or operational characteristics of these systems.

(2) will not create the possibility of a new or different kind of accident because no new failure modes are introduced that will affect the operation of Reactor Core Isolation Cooling and High Pressure Coolant Injection systems.

(3) will not involve a significant reduction in the margin of safety. These changes will increase safety by ensuring that area installed equipment will operate in environmentally qualified conditions that are postulated in the event of an accident.

Changes related to the third category, Isolation Signals:

(1) will not involve a significant increase in the probability or consequences of an accident previously evaluated.

Isolation codes "M", "R", and "X" are not new isolation signals for the containment isolation valves, since they are part of the plant's original design. They were reviewed by the NRC in the original FSAR submittal. These isolation signal codes have always been tested and treated as part of the plant's protection system.

The addition of signal "H" (Containment high radiation) to the vent and purge containment isolation valves improves the capability of the system to isolate in the event of high radiation in the drywell. This new isolation signal increases the redundancy and diversity of physical parameters sensed to isolate the containment in the event of an accident.

(2) will not create the possibility of a new or different kind of accident.

Signals "M", "R", and "X" are added to Table 3.7-1 to complete the list for certain containment penetrations in order to make the Technical Specifications reflect the original plant design. The addition of these signals are purely administrative in nature and were incorporated in the original FSAR submittal.

The addition of isolation "H" improves diversity of physical parameters sensed to isolate the containment in the event of an accident. The trip setpoint for this signal is set such that it will not spuriously isolate the vent and purge system when the valves are being used.

(3) will not involve a significant reduction in the margin of safety.

These changes have always been part of the original design of the plant as reviewed by the NRC and documented in the design basis of the FSAR. The changes are administrative in nature and correct the list of signal codes to reflect the plant's original design.

The staff has reviewed the licensee's no significant hazards consideration determination. Based on the review and the above discussion, the staff proposes to determine that the proposed changes do not involve a significant hazards consideration.

Local Public Document Room
location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego, New York

Date of amendment request: May 31, 1989, as supplemented July 18, 1989.

Description of amendment request: By letter dated May 31, 1989, the licensee proposed a Technical Specification (TS) amendment which would, among other changes, incorporate certain

modifications to the Low Pressure Coolant Injection (LPCI) System surveillance test requirements. These changes would reflect the Recirculation System loop selection logic modification installed during the Reload 1/Cycle 2 refueling outage. This proposal was published in the Federal Register on July 26, 1989 (54 FR 31116). By letter dated July 18, 1989, the licensee has amended the May 31, 1989 submittal to further clarify Section 3.5.A.

Limiting Condition for Operation (LCO) 3.5.A.3.a addresses the situation when one of the Residual Heat Removal (RHR) pumps is made or found to be inoperable, while LCO 3.5.A.3.b addresses the situation when one of the LPCI subsystems is made or found to be inoperable. (Both LCOs permit continued plant operation for seven days.) Since the loss of any one of the four RHR pumps would render the corresponding LPCI inoperable, both LCOs address identical situations.

To eliminate this duplication, the licensee has proposed elimination of LCO 3.5.A.3.a. As a result, LCO 3.5.A.3.b would be renumbered to become 3.5.A.3.a and relocated to the previous page and LCO 3.5.A.3.c would become 3.5.A.3.b.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards for determining whether a significant hazards consideration exists as stated in 10 CFR 50.92. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with a proposed amendment would not: (1) Involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) Create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) Involve a significant reduction in a margin of safety. The staff has reviewed the licensee's submittal and concludes:

(a) that the proposal would not involve a significant increase in the probability or consequences of an accident previously evaluated since the proposal does not actually result in a change to the present TS requirements. The LCO to be deleted is a duplication of another LCO which would be applicable under the same conditions and with the same consequences, since loss of one RHR pump would render the respective LPCI system inoperable.

(b) that the proposal would not create the possibility of a new or different kind of accident previously evaluated since the proposal results in no technical change to the requirements. Both LCOs apply to the same conditions and result

in application of a seven day operating period prior to imposition of further limitations.

(c) that the proposal would not involve a significant reduction in a margin of safety since the proposal does not result in a change to the requirements. The effect is to eliminate duplication and to clarify the requirements.

Local Public Document Room location: State University of New York, Penfield Library, Reference and Documents Department, Oswego, New York 13126.

Attorney for licensee: Mr. Charles M. Pratt, 1633 Broadway, New York, New York 10019.

NRC Project Director: Robert A. Capra

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of amendment request: October 9, 1989

Description of amendment request: The proposed amendment would change the title of the Assistant Plant Manager-Operations in Technical Specification (TS) 6.2.2, Facility Staff, to Manager-Plant Operations. The proposed amendment would further change TS 6.2.2 by allowing a previously held Senior Reactor Operator (SRO) license for the Davis-Besse Nuclear Power Station (DBNPS) or for another pressurized water reactor to serve as acceptable qualifications for the Manager-Plant Operations. TS 6.3 would also be revised to reflect this change.

Basis for proposed no significant hazards consideration determination: The Commission has provided standards in 10 CFR 50.92(c) for determining whether a significant hazard exists. A proposed amendment to an operating license for a facility involves no significant hazards consideration if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; (2) create the possibility of a new or different kind of accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has reviewed the proposed changes in accordance with the requirements of 10 CFR 50.92 and has determined that the request does not involve a significant hazard consideration, as stated below:

Toledo Edison has reviewed the proposed changes as discussed in the Technical

Description and determined that a significant hazard does not exist because operation of the Davis-Besse Nuclear Power Station, Unit Number 1 in accordance with these changes would:

Not involve a significant increase in the probability or consequences of an accident previously evaluated because the accident conditions and assumptions are not affected by the proposed Technical Specification changes. The proposed changes do not involve a test, experiment or a modification to a system. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. The proposed changes are administrative in nature and do not increase the probability or consequences of an accident previously evaluated.

Not create the possibility of a new or different kind of accident from any accident previously evaluated because the accident conditions and assumptions are not affected by the proposed Technical Specification changes. The proposed changes do not involve a test, experiment or a modification to a system and do not affect any plant equipment or operational procedures which could create the possibility of a different accident. The proposed changes are administrative in nature and involve no accident scenario. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. On matters related to nuclear safety, all accidents are bounded by previous analysis and no new accidents are involved.

Not involve a significant reduction in a margin of safety because the proposed Technical Specification changes do not affect any operating practices or limits nor does it affect any equipment or system important to safety. Licensed operators will continue to operate the plant under the supervision of the Operations Superintendent who is required to hold a current DBNPS SRO license. The proposed changes are administrative in nature and will not reduce the margin of safety.

The NRC staff has reviewed and agrees with the licensee's evaluation. Therefore, the NRC staff proposes to determine that the proposed amendment involves no significant hazard consideration.

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Attorney for licensee: Gerald Charnoff, Esquire, Shaw, Pittman, Potts and Trowbridge, 2300 N Street, NW., Washington, DC 20037.

NRC Project Director: John N. Hannon
Virginia Electric and Power Company, Docket Nos. 50-338 and 50-339, North Anna Power Station, Units No. 1 and No. 2, Louisa County, Virginia

Date of amendment request: October 13, 1989.

Description of amendment request:

The proposed changes would revise the North Anna Power Station, Units 1 and 2 (NA-1&2) Technical Specifications (TS) which govern flood protection control. The change was necessitated by the licensee's reanalysis of potential flooding conditions. This reanalysis required the addition of a flood control dyke around the west end of the NA-2 Turbine and Service Buildings in order to provide protection of safety related equipment and facilities. In order to accommodate drainage of normal accumulation from within the dyke-enclosed area, a drain pipe is provided through the dyke. During potential flooding conditions, this drain pipe must be isolated to prohibit reverse flow of water into the enclosure and inflow into the Turbine and Service Buildings.

Specifically, the proposed changes would modify TS Action Statement 3-7.6 by requiring isolation of the dyke drain pipe valve within four hours if the water level at the main reservoir spillway reaches a level of 252 feet Mean Sea Level (MSL). Also, Surveillance Requirement 4.7.8 would be revised to reduce the trigger level for escalating surveillance of the Main Reservoir Water Level from 255 feet to 251 feet MSL. Finally, the surveillance interval would be decreased from once every 24 hours to once every 8 hours when the reservoir level is below 251 feet MSL and at least once every 2 hours whenever the reservoir level is equal to or greater than 251 feet MSL.

Basis for proposed no significant hazards consideration determination:

The Commission has provided standards for determining whether a significant hazards consideration exists (10 CFR 50.92(c)). A proposed amendment to an operating license for a facility involves no significant hazards considerations if operation of the facility in accordance with the proposed amendment would not: (1) involve a significant increase in the probability or consequences of an accident previously evaluated; or (2) create the possibility of a new or different kind of accident from any accident previously evaluated; or (3) involve a significant reduction in a margin of safety.

The licensee has evaluated the proposed changes in accordance with the criteria above and has made the following determination that the proposed changes do not involve a significant hazards consideration as defined in 10 CFR 50.92 because the changes would not:

- (1) result in a significant increase in the

probability or consequences of an accident previously evaluated. This change will provide additional controls, not currently in place, to reduce the probability of flooding and provide more restrictive surveillance requirements for identifying potential flooding conditions.

- (2) create the possibility of a new or different kind of accident. This change reflects plant modifications that are being implemented to protect the safety related equipment during postulated worst case flooding conditions. The installation of the dyke and the proposed TS change and surveillance requirements for potential flooding conditions will enhance protection of safety related equipment, during currently analyzed accidents, and will not introduce any new, or unanalyzed accidents.

- (3) result in a significant reduction in the margins of safety. The changes provide for additional limitations and controls, more restrictive than those currently existing in the NA-1&2 TS, to be placed on the operation of NA-1&2.

The staff has reviewed the licensee's no significant hazards consideration determination analysis and agrees with the above conclusion. Therefore, the staff proposes to determine that the proposed changes do not involve significant hazards considerations.

Local Public Document Room

location: The Alderman Library, Manuscripts Department, University of Virginia, Charlottesville, Virginia 22901.

Attorney for licensee: Michael W. Maupin, Esq., Hunton and Williams, P.O. Box 1535, Richmond, Virginia 23212.

NRC Project Director: Herbert N. Berkow

PREVIOUSLY PUBLISHED NOTICES OF CONSIDERATION OF ISSUANCE OF AMENDMENTS TO OPERATING LICENSES AND PROPOSED NO SIGNIFICANT HAZARDS CONSIDERATION DETERMINATION AND OPPORTUNITY FOR HEARING

The following notices were previously published as separate individual notices. The notice content was the same as above. They were published as individual notices either because time did not allow the Commission to wait for this biweekly notice or because the action involved exigent circumstances. They are repeated here because the biweekly notice lists all amendments issued or proposed to be issued involving no significant hazards consideration.

For details, see the individual notice in the Federal Register on the day and page cited. This notice does not extend the notice period of the original notice.

Public Service Company of New Hampshire, Docket No. 50-443, Seabrook Station, Rockingham County, New Hampshire

Date of amendment request:
September 21, 1989

Description of amendment request:

The proposed amendment would preclude the potential of a forced plant shutdown as a result of loss of the Containment Building Compressed Air System. The licensee proposes that a back-up air supply be connected to the Containment Building Compressed Air System. The back-up air supply would be a cross-connection between the Plant Instrument Air System and the Containment Air System. The cross-connection would enter the containment building thru an existing containment penetration, X-68.

Date of publication of individual notice in Federal Register: October 26, 1989 (54 FR 43634).

Expiration date of individual notice:
November 27, 1989

Local Public Document Room location: Exeter Public Library, 47 Front Street, Exeter, New Hampshire 03833.

NOTICE OF ISSUANCE OF AMENDMENT TO FACILITY OPERATING LICENSE

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Notice of Consideration of Issuance of Amendment to Facility Operating License and Proposed No Significant Hazards Consideration Determination and Opportunity for Hearing in connection with these actions was published in the Federal Register as indicated. No request for a hearing or petition for leave to intervene was filed following this notice.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has

prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the applications for amendments, (2) the amendments, and (3) the Commission's related letters, Safety Evaluations and/or Environmental Assessments as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document rooms for the particular facilities involved. A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

Carolina Power & Light Company, Docket No. 50-261, H. B. Robinson Steam Electric Plant, Unit No. 2, Darlington County, South Carolina

Date of application for amendment: November 30, 1988, as supplemented on May 5, 1989 and October 11, 1989.

Brief description of amendment: The amendment changes certain requirements on the storage of diesel fuel oil inventory onsite. The increased minimum inventory and associated surveillance required will ensure that sufficient fuel is available to operate one diesel generator as its rated design capacity for seven days following a design basis accident.

Date of issuance: October 26, 1989

Effective date: October 26, 1989

Amendment No. 124

Facility Operating License No. DPR-23. Amendment revises the Technical Specifications.

Date of initial notice in Federal Register: February 1, 1989 (54 FR 5161)

The May 5, 1989 letter provided the associated surveillance requirements and did not change the initial determination of no significant hazards consideration as published in the Federal Register.

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Hartsville Memorial Library, Home and Fifth Avenues, Hartsville, South Carolina 29535

Connecticut Yankee Atomic Power Company, Docket No. 50-213, Haddam Neck Plant, Middlesex County, Connecticut; Northeast Nuclear Energy Company, et al., Docket Nos. 50-245 and 50-336, Millstone Nuclear Power Station, Unit Nos. 1 and 2, New London County, Connecticut

Date of application for amendments: April 25, 1989, as supplemented June 26, 1989

Brief description of amendments: The amendments revise the Technical Specifications (TS) Sections 6.12, "High Radiation Area," for Haddam Neck and Millstone Unit 2 plants and TS Section 6.13, "High Radiation Area," for Millstone Unit 1 plant by (1) defining the dose rate as measured at 45 cm (18 inches) from the source, (2) increasing the Radiation Work Permit requirements for entry into locked High Radiation areas with dose rates greater than the 1000 mR/h by requiring maximum stay time limits or continuous surveillance, (3) allowing an alternative to enclosing and locking large areas with dose rates greater than 1000 mR/h and in which an enclosure cannot be reasonably constructed and (4) defining locked High Radiation areas as those with dose rates greater than 1000 mR/h at 18 inches from the radiation source.

Date of Issuance: October 24, 1989

Effective date: October 24, 1989

Amendment Nos.: 124, 35, 144

Facility Operating License No. DPR-61, DPR-21 and DPR-65. Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31104). The Commission's related evaluation of this amendment is contained in a Safety Evaluation dated October 24, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: Russell Library, 123 Broad Street, Middletown, Connecticut 06457; Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: April 21, 1989

Brief description of amendment: The amendment revises the Technical Specifications to remove requirements on the reactor coolant resistance temperature detector (RTD) bypass system, and to replace them with requirements on fast-response thermowell-mounted RTDs.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No. 145

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: May 31, 1989 (54 FR 23311). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Duquesne Light Company, Docket No. 50-334, Beaver Valley Power Station, Unit No. 1, Shippingport, Pennsylvania

Date of application for amendment: September 22, 1989

Brief description of amendment: The amendment revises the Technical Specifications to remove containment isolation valve SI-91 from Table 3.6-1. The bypass line on which SI-91 is installed is no longer needed since its function has been obviated by Amendment No. 71. Both the bypass line and valve SI-91 will be eliminated.

Date of issuance: November 2, 1989

Effective date: November 2, 1989

Amendment No. 146

Facility Operating License No. DPR-66. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: October 2, 1989 (54 FR 40549). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 2, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

Florida Power and Light Company, et al., Docket No. 50-389, St. Lucie Plant, Unit No. 2, St. Lucie County, Florida

Date of application for amendment: October 24, 1988

Brief description of amendment: The amendment provides for expansion of the Departure from Nucleate Boiling and Linear Heat Rate related Axial Shape Index limits for the Limiting Conditions for Operation and the LHR-related Limiting Safety System Setpoints. The licensee requested these changes to give the plant greater flexibility at low and intermediate power levels.

Date of Issuance: October 23, 1989

Effective Date: October 23, 1989

Amendment No.: 42

Facility Operating License No. NPF-16. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: November 16, 1988 (54 FR 46145). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Indian River Junior College Library, 3209 Virginia Avenue, Ft. Pierce, Florida.

Louisiana Power and Light Company, Docket No. 50-382, Waterford Steam Electric Station, Unit 3, St. Charles Parish, Louisiana

Date of amendment request: August 14, 1989

Brief description of amendment: The amendment revised the Technical Specifications to allow the control element assembly drop time acceptance to be based on the average drop time rather than the slowest drop time of any control element assembly. The amendment replaces the licensee's proposed amendment submitted by letter dated May 27, 1988 and as noticed in the Federal Register on July 13, 1988 (53 FR 26526).

Date of issuance: October 31, 1989

Effective date: October 31, 1989

Amendment No.: 58

Facility Operating License No. NPF-38. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37047). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 31, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of New Orleans Library, Louisiana Collection, Lakefront, New Orleans, Louisiana 70122.

Northeast Nuclear Energy Company, Docket No. 50-245, Millstone Nuclear Power Station, Unit No. 1, New London County, Connecticut

Date of application for amendment: July 31, 1989

Brief description of amendment: This change to the Technical Specifications revises the listed distribution voltage of the primary side of the Emergency Station Services Transformer from 27.6KV to 23KV. This reflects a previous plant modification.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 38

Facility Operating License No. DPR-21. Amendment revised the Technical Specifications

Date of initial notice in Federal Register: September 8, 1989 (54 FR 37048). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Waterford Public Library, 49 Rope Ferry Road, Waterford, Connecticut 06385.

Northern States Power Company, Docket No. 50-263, Monticello Nuclear Generating Plant, Wright County, Minnesota

Date of application for amendment: August 2, 1989

Brief description of amendment: The amendment would delete Table 3.7.1, "Primary Containment Isolation," from the Technical Specifications to permit the Updated Safety Analysis Report (USAR) to serve as the primary reference for identification of primary containment isolation valves and their associated closure time limits, normal position, and group assignment.

Date of issuance: October 19, 1989

Effective date: October 19, 1989

Amendment No.: 71

Facility Operating License No. DPR-22. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37049). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 19, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Minneapolis Public Library, Technology and Science Department, 300 Nicollet Mall, Minneapolis, Minnesota 55401.

Philadelphia Electric Company, Docket No. 50-352, Limerick Generating Station, Unit 1, Montgomery County, Pennsylvania

Date of application for amendment: May 26 and August 7, 1989

Brief description of amendment: Administrative changes to the Technical Specifications to achieve consistency, remove outdated material, make minor text changes and correct errors.

Date of issuance: October 30, 1989

Effective date: October 30, 1989

Amendment No.: 33

Facility Operating License No. NPF-39. This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 12, 1989 (54 FR 29408). The Commission's related evaluation of the

amendment is contained in a Safety Evaluation dated October 30, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pottstown Public Library, 500 High Street, Pottstown, Pennsylvania 19464.

Philadelphia Electric Company, Public Service Electric and Gas Company, Delmarva Power and Light Company, and Atlantic City Electric Company, Docket No. 50-277, Peach Bottom Atomic Power Station, Unit No. 2, York County, Pennsylvania

Date of application for amendment: May 15, 1989

Brief description of amendment: This amendment modified the pressure temperature limits for the reactor vessel consistent with the guidance in Generic Letter 88-11, "NRC Position On Radiation Embrittlement of Reactor Vessel Materials and Its Effect on Plant Operations".

Date of issuance: October 25, 1989

Effective date: October 25, 1989

Amendment No.: 153

Facility Operating License No. DPR-44. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: July 26, 1989 (54 FR 31116). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Government Publications Section, State Library of Pennsylvania, Education Building, Commonwealth and Walnut Streets, Harrisburg, Pennsylvania 17126.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment changes the frequency of the resistance to ground surveillance requirement for the Intake Deicing Heaters from once per operating cycle to once per year. Minor administrative changes to Specifications 3.11.E and 4.11.E. are also reflected.

Date of issuance: October 16, 1989

Effective date: October 16, 1989

Amendment No.: 141

Facility Operating License No. DPR-59. Amendment revised the Technical Specification.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27238). The

Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 16, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Power Authority of the State of New York, Docket No. 50-333, James A. FitzPatrick Nuclear Power Plant, Oswego County, New York

Date of application for amendment: May 19, 1989

Brief description of amendment: The amendment reflects installation of a second diesel driven fire pump and the resulting changes to the existing electric and diesel fire pumps.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No.: 142

Facility Operating License No. DPR-59: Amendment revised the Technical Specification.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27238). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Penfield Library, State University College of Oswego, Oswego, New York.

Public Service Electric & Gas Company, Docket No. 50-354, Hope Creek Generating Station, Salem County, New Jersey

Date of application for amendment: May 18, 1989 and supplemented on August 21, 1989 (NLR-N89160) (LCR 89-12, Rev. 1)

Brief description of amendment: The amendment request replaced the values of the Technical Specifications cycle specific parameter limits with a reference to a Core Operating Limits Report.

Date of issuance: October 20, 1989

Effective date: As of its date of issuance and shall be implemented within sixty days of its date of issuance.

Amendment No.: 34

Facility Operating License No. NPF-57: This amendment revised the Technical Specifications.

Date of initial notice in Federal Register: June 28, 1989 (54 FR 27240) and (54 FR 38577) September 19, 1989. The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 20, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Pennsville Public Library, 190 S. Broadway, Pennsville, New Jersey 08070

Sacramento Municipal Utility District, Docket No. 50-312, Rancho Seco Nuclear Generating Station, Sacramento County, California

Date of application for amendment: June 10, 1988, as revised January 11, 1989.

Brief description of amendment: The amendment revised several sections of the technical specifications concerning radioactive effluents.

Date of issuance: October 26, 1989

Effective date: 30 days after date of issuance.

Amendment No.: 114

Facility Operating License No. DPR-54: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: April 24, 1989 (54 FR 16438). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 26, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Martin Luther King Regional Library, 7340 24th Street Bypass, Sacramento, California 95822.

Tennessee Valley Authority, Docket Nos. 50-327 and 50-328, Sequoyah Nuclear Plant, Units 1 and 2, Hamilton County, Tennessee

Date of application for amendments: May 25, 1989 (TS 89-04)

Brief description of amendments: The amendments modify the Sequoyah Nuclear Plant (SQN), Units 1 and 2, Technical Specifications (TSs). The changes revise Section 4.8.3.2 and Table 3.8-2 to add a surveillance requirement for a channel functional test of the bypass circuitry for the thermal overload devices of the turbine-driven auxiliary feedwater (AFW) pump trip and throttle valve. These valves, 1-FCV-1-51 and 2-FCV-1-51, will be identified in Table 3.8-2 as being bypassed under accident conditions. The overload devices for these valves are normally in force during plant operation and bypassed under accident conditions. The changes also identify valves 1-FCV-70-207 and 2-FCV-70-207 in Table 3.8-2 as common to both units.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment Nos.: 128, 115

Facility Operating Licenses Nos. DPR-77 and DPR-79: Amendments revised the Technical Specifications.

Date of initial notice in Federal Register: August 9, 1989 (54 FR 32178).

The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Chattanooga-Hamilton County Library, 1001 Broad Street, Chattanooga, Tennessee 37402.

Toledo Edison Company and The Cleveland Electric Illuminating Company, Docket No. 50-346, Davis-Besse Nuclear Power Station, Unit No. 1, Ottawa County, Ohio

Date of application for amendment: August 23, 1989

Brief description of amendment: The amendment removed the provision of Specification 4.0.2 that limited the combined time interval for three consecutive surveillances to less than 3.25 times the specified interval. The amendment conforms to the guidance given in Generic Letter 89-14, issued August 21, 1989.

Date of issuance: October 27, 1989

Effective date: October 27, 1989

Amendment No.: 140

Facility Operating License No. NPF-3: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37054). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: University of Toledo Library, Documents Department, 2801 Bancroft Avenue, Toledo, Ohio 43606.

Union Electric Company, Docket No. 50-483, Callaway Plant, Unit 1, Callaway County, Missouri

Date of application for amendment: August 2, 1989

Brief description of amendment: The amendment revised Technical Specification Figures 5.1-1, 5.1-2, 5.1-3 and 5.1-4 regarding the exclusion area, low population zone, site boundary for gaseous effluents, and site boundary for liquid effluents. The figures are clarified and updated to show the additional area closed to public use by the Reform Wildlife Management Agreement dated April 10, 1989.

Date of issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 48

Facility Operating License No. NPF-30: Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37054). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Callaway County Public Library, 710 Court Street, Fulton, Missouri 65251 and the John M. Olin Library, Washington University, Skinker and Lindell Boulevards, St. Louis, Missouri 63130.

Wisconsin Electric Power Company, Docket No. 50-301, Point Beach Nuclear Plant, Unit No. 2, Town of Two Creeks, Manitowoc County, Wisconsin

Date of application for amendment: August 8, 1989 as modified August 31, 1989

Brief description of amendment: The amendment altered Technical Specification Table 15.3.1-2, Point Beach Nuclear Plant, Unit No. 2 Reactor Vessel Surveillance Capsule Removal Schedule. The amendment delayed the removal of the "P" capsule until the fall of 1996 and accelerated the removal of the "S" capsule to the fall of 1990.

Date of issuance: October 24, 1989

Effective date: October 24, 1989

Amendment No.: 128

Facility Operating License No. 1DPR-27. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 20, 1989 (54 FR 38769). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 24, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: Joseph P. Mann Library, 1516 Sixteenth Street, Two Rivers, Wisconsin.

Wisconsin Public Service Corporation, Docket No. 50-305, Kewaunee Nuclear Power Plant, Kewaunee County, Wisconsin

Date of application for amendment: June 12, 1989

Brief description of amendment: The amendment redefined the measure of fuel oil supply for the emergency diesel generators' (DG) day tanks from a quantity of time, to a quantity of volume. The amendment also clarified the bases of the required storage capacity.

Date of issuance: October 25, 1989

Effective date: October 25, 1989

Amendment No.: 83

Facility Operating License No. NPF-30. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: August 9, 1989 (54 FR 32721). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 25, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room location: University of Wisconsin Library Learning Center, 2420 Nicolet Drive, Green Bay, Wisconsin 54301.

Wolf Creek Nuclear Operating Corporation, Docket No. 50-482, Wolf Creek Generating Station, Coffey County, Kansas

Date of amendment request: July 25, 1989

Brief description of amendment: The amendment revised technical specification Surveillance Requirement 4.9.6.1 to require the Refueling Machine to be demonstrated operable within 100 hours prior to the movement of fuel assemblies within the Reactor Vessel. The amendment also revised Surveillance Requirement 4.9.6.2 to require the Auxiliary Hoist to be demonstrated operable within 100 hours prior to the movement of drive rods within the Reactor Vessel. Previously, the Technical Specifications required that both the Refueling Machine and the Auxiliary Hoist be proven operable 100 hours prior to lifting the Reactor Vessel Head.

Date of Issuance: November 1, 1989

Effective date: November 1, 1989

Amendment No.: 34

Facility Operating License No. NPF-42. Amendment revised the Technical Specifications.

Date of initial notice in Federal Register: September 6, 1989 (54 FR 37056). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated November 1, 1989.

No significant hazards consideration comments received: No.

Local Public Document Room Location: Emporia State University, William Allen White Library, 1200 Commercial Street, Emporia, Kansas 66801 and Washburn University School of Law Library, Topeka, Kansas 66621

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: August 31, 1989

Brief description of amendment: This amendment will incorporate into the Technical Specifications of Yankee

Nuclear Power Station (YNPS) new operability and surveillance requirements for equipment installed to meet the criteria of Item II.F.1-1 of NUREG-0737, for the monitoring of noble gas in plant effluent, and to include the Main Steam Line Monitors.

Date of issuance: October 23, 1989

Effective date: October 23, 1989

Amendment No.: 128

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications and/or License.

Date of initial notice in Federal Register: September 20, 1989 (54 FR 38770). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 23, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

Yankee Atomic Electric Company, Docket No. 50-029, Yankee Nuclear Power Station, Franklin County, Massachusetts

Date of application for amendment: July 24, 1989

Brief description of amendment: The amendment consists of two changes: (1) The proposed amendment modifies Table 3.2.-1 of Technical Specification 3.2.4 to substitute a limit on the operating loop average temperature for the current limit on cold leg temperature. The temperature limit will allow greater operational flexibility during part-load operation and will maintain DNB margins to be bounded by full power condition. (2) The amendment removes the word "Exxon" from the last paragraph of Technical Specification Base 3/4.2.4.

Date of issuance: October 27, 1989

Effective date: October 27, 1989

Amendment No.: 127

Facility Operating License No. DPR-3. Amendment revised the Technical Specifications and/or License.

Date of initial notice in Federal Register: August 23, 1989 (54 FR 35113). The Commission's related evaluation of the amendment is contained in a Safety Evaluation dated October 27, 1989.

No significant hazards consideration comments received: No

Local Public Document Room location: Greenfield Community College, 1 College Drive, Greenfield, Massachusetts 01301.

**NOTICE OF ISSUANCE OF
AMENDMENT TO FACILITY
OPERATING LICENSE AND FINAL
DETERMINATION OF NO
SIGNIFICANT HAZARDS
CONSIDERATION AND
OPPORTUNITY FOR HEARING
(EXIGENT OR EMERGENCY
CIRCUMSTANCES)**

During the period since publication of the last biweekly notice, the Commission has issued the following amendments. The Commission has determined for each of these amendments that the application for the amendment complies with the standards and requirements of the Atomic Energy Act of 1954, as amended (the Act), and the Commission's rules and regulations. The Commission has made appropriate findings as required by the Act and the Commission's rules and regulations in 10 CFR Chapter I, which are set forth in the license amendment.

Because of exigent or emergency circumstances associated with the date the amendment was needed, there was not time for the Commission to publish, for public comment before issuance, its usual 30-day Notice of Consideration of Issuance of Amendment and Proposed No Significant Hazards Consideration Determination and Opportunity for a Hearing. For exigent circumstances, the Commission has either issued a Federal Register notice providing opportunity for public comment or has used local media to provide notice to the public in the area surrounding a licensee's facility of the licensee's application and of the Commission's proposed determination of no significant hazards consideration. The Commission has provided a reasonable opportunity for the public to comment, using its best efforts to make available to the public means of communication for the public to respond quickly, and in the case of telephone comments, the comments have been recorded or transcribed as appropriate and the licensee has been informed of the public comments.

In circumstances where failure to act in a timely way would have resulted, for example, in derating or shutdown of a nuclear power plant or in prevention of either resumption of operation or of increase in power output up to the plant's licensed power level, the Commission may not have had an opportunity to provide for public comment on its no significant hazards determination. In such case, the license amendment has been issued without opportunity for comment. If there has been some time for public comment but less than 30 days, the Commission may provide an opportunity for public

comment. If comments have been requested, it is so stated. In either event, the State has been consulted by telephone whenever possible.

Under its regulations, the Commission may issue and make an amendment immediately effective, notwithstanding the pendency before it of a request for a hearing from any person, in advance of the holding and completion of any required hearing, where it has determined that no significant hazards consideration is involved.

The Commission has applied the standards of 10 CFR 50.92 and has made a final determination that the amendment involves no significant hazards consideration. The basis for this determination is contained in the documents related to this action. Accordingly, the amendments have been issued and made effective as indicated.

Unless otherwise indicated, the Commission has determined that these amendments satisfy the criteria for categorical exclusion in accordance with 10 CFR 51.22. Therefore, pursuant to 10 CFR 51.22(b), no environmental impact statement or environmental assessment need be prepared for these amendments. If the Commission has prepared an environmental assessment under the special circumstances provision in 10 CFR 51.12(b) and has made a determination based on that assessment, it is so indicated.

For further details with respect to the action see (1) the application for amendment, (2) the amendment to Facility Operating License, and (3) the Commission's related letter, Safety Evaluation and/or Environmental Assessment, as indicated. All of these items are available for public inspection at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, and at the local public document room for the particular facility involved.

A copy of items (2) and (3) may be obtained upon request addressed to the U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Director, Division of Reactor Projects.

The Commission is also offering an opportunity for a hearing with respect to the issuance of the amendments. By December 15, 1989, the licensee may file a request for a hearing with respect to issuance of the amendment to the subject facility operating license and any person whose interest may be affected by this proceeding and who wishes to participate as a party in the proceeding must file a written petition for leave to intervene. Requests for a hearing and petitions for leave to intervene shall be filed in accordance

with the Commission's "Rules of Practice for Domestic Licensing Proceedings" in 10 CFR Part 2. If a request for a hearing or petition for leave to intervene is filed by the above date, the Commission or an Atomic Safety and Licensing Board, designated by the Commission or by the Chairman of the Atomic Safety and Licensing Board Panel, will rule on the request and/or petition and the Secretary or the designated Atomic Safety and Licensing Board will issue a notice of hearing or an appropriate order.

As required by 10 CFR 2.714, a petition for leave to intervene shall set forth with particularity the interest of the petitioner in the proceeding and how that interest may be affected by the results of the proceeding. The petition should specifically explain the reasons why intervention should be permitted with particular reference to the following factors: (1) the nature of the petitioner's right under the Act to be made a party to the proceeding; (2) the nature and extent of the petitioner's property, financial, or other interest in the proceeding; and (3) the possible effect of any order which may be entered in the proceeding on the petitioner's interest. The petition should also identify the specific aspect(s) of the subject matter of the proceeding as to which petitioner wishes to intervene. Any person who has filed a petition for leave to intervene or who has been admitted as a party may amend the petition without requesting leave of the Board up to fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, but such an amended petition must satisfy the specificity requirements described above. Interested persons should consult a current copy of 10 CFR 2.714 which is available at the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC 20555 and at the Local Public Document Room for the particular facility involved.

Not later than fifteen (15) days prior to the first prehearing conference scheduled in the proceeding, a petitioner shall file a supplement to the petition to intervene which must include a list of the contentions which are sought to be litigated in the matter. Each contention must consist of a specific statement of the issue of law or fact to be raised or controverted. In addition, the petitioner shall provide a brief explanation of the bases of the contention and a concise statement of the alleged facts or expert opinion which support the contention and on which the petitioner intends to rely in proving the contention at the hearing. The petitioner must also

provide references to those specific sources and documents of which the petitioner is aware and on which the petitioner intends to rely to establish those facts or expert opinion. Petitioner must provide sufficient information to show that a genuine dispute exists with the applicant on a material issue of law or fact. Contentions shall be limited to matters within the scope of the amendments under consideration. The contention must be one which, if proven, would entitle the petitioner to relief. A petitioner who fails to file such a supplement which satisfies these requirements with respect to at least one contention will not be permitted to participate as a party.

Those permitted to intervene become parties to the proceeding, subject to any limitations in the order granting leave to intervene, and have the opportunity to participate fully in the conduct of the hearing, including the opportunity to present evidence and cross-examine witnesses.

Since the Commission has made a final determination that the amendment involves no significant hazards consideration, if a hearing is requested, it will not stay the effectiveness of the amendment. Any hearing held would take place while the amendment is in effect.

A request for a hearing or a petition for leave to intervene must be filed with the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555, Attention: Docketing and Service Branch, or may be delivered to the Commission's Public Document Room, the Gelman Building, 2120 L Street, NW., Washington, DC, by the above date. Where petitions are filed during the last ten (10) days of the notice period, it is requested that the petitioner promptly so inform the Commission by a toll-free telephone call to Western Union at 1-(800) 325-6000 (in Missouri 1-(800) 342-6700). The Western Union operator should be given Datagram Identification Number 3737 and the following message addressed to (Project Director): petitioner's name and telephone number; date petition was mailed; plant name; and publication date and page number of this Federal Register notice. A copy of the petition should also be sent to the Office of the General Counsel, U.S. Nuclear Regulatory Commission, Washington, DC 20555, and to the attorney for the licensee.

Nontimely filings of petitions for leave to intervene, amended petitions, supplemental petitions and/or requests for hearing will not be entertained absent a determination by the Commission, the presiding officer or the

Atomic Safety and Licensing Board, that the petition and/or request should be granted based upon a balancing of the factors specified in 10 CFR 2.714(a)(1)(i)-(v) and 2.714(d).

Duquesne Light Company, Docket No. 50-412, Beaver Valley Power Station, Unit No. 2, Shippingport, Pennsylvania

Date of application for amendment: October 16, 1989

Brief description of amendment: The amendment revises the Technical Specifications to update the diesel generator fuel oil surveillance requirements to current standards.

Date of issuance: October 30, 1989

Effective date: October 30, 1989

Amendment No. 22

Facility Operating License No. NPF-73. Amendment revised the Technical Specifications.

Public comments requested as to proposed no significant hazards consideration: No

The Commission's related evaluation of the amendment, finding of emergency circumstances, and final determination if no significant hazards consideration are contained in a Safety Evaluation dated October 30, 1989.

Attorney for licensee: Gerald Charnoff, Esquire, Jay E. Silberg, Esquire, Shaw, Pittman, Potts & Trowbridge, 2300 N Street, NW., Washington, DC 20037.

Local Public Document Room location: B. F. Jones Memorial Library, 663 Franklin Avenue, Aliquippa, Pennsylvania 15001.

NRC Project Director: John F. Stolz
Dated at Rockville, Maryland, this 8th day of November, 1989.

For the Nuclear Regulatory Commission
Gary M. Holahan,

*Acting Director, Division of Reactor Projects—III, IV, V and Special Projects
Office of Nuclear Reactor Regulation*
[Doc. 89-26658 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-D

Staff Assessment of Proposed Amended Agreement Between the Nuclear Regulatory Commission and the State of Utah

AGENCY: U. S. Nuclear Regulatory Commission.

ACTION: Notice of Proposed Amended Agreement with the State of Utah.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is publishing for public comment the NRC staff assessment of a proposed amended agreement received from the Governor of the State of Utah for the assumption of certain of the

Commission's regulatory authority pursuant to section 274 of the Atomic Energy Act of 1954, as amended. Comments are requested on the public health and safety aspects of the proposal.

A staff assessment of the State's proposed amended program for control over sources of radiation is set forth below as supplementary information to this notice. A copy of the proposed amended agreement, program narrative, including the referenced appendices, applicable State legislation and Utah regulations, is available for public inspection in the Commission's public document room at 2120 L Street, NW, Washington, DC. Exemptions from the Commission's regulatory authority, which would implement this proposed amended agreement, have been published in the Federal Register and codified as part 150 of the Commission's regulations in Title 10 of the Code of Federal Regulations.

DATE: Comments must be received on or before December 15, 1989.

ADDRESSES: Submit comments to: the Secretary of the Commission, U.S. Nuclear Regulatory Commission, Washington, DC 20555. ATTN: Docketing and Services Branch. Comments may also be delivered to 11555 Rockville Pike, Rockville, Maryland from 7:45 a.m. to 4:15 p.m. Monday through Friday. Copies of comments received by NRC may be examined at the NRC Public Document Room, 2120 L Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Vandy L. Miller, State, Local and Indian Tribe Programs, U.S. Nuclear Regulatory Commission, Washington, D.C. 20555, telephone: 301-492-0326.

SUPPLEMENTARY INFORMATION: Assessment of proposed amended Utah Program to regulate certain radioactive materials pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

The Commission has received a proposal from the Governor of Utah for the State to amend its agreement with the NRC whereby the NRC would relinquish and the State would assume regulatory authority for land disposal of source, byproduct and special nuclear material received from other persons pursuant to section 274 of the Atomic Energy Act of 1954, as amended.

Section 274e of the Atomic Energy Act of 1954, as amended, requires that the terms of the proposed agreement be published for public comment once each week for four consecutive weeks. Accordingly, this notice will be

published four times in the Federal Register.

I. Background

A. Section 274 of the Atomic Energy Act of 1954, as amended, provides a mechanism whereby the NRC may transfer to the States certain regulatory authority over agreement materials¹ when a State desires to assume this authority and the Governor certifies that the State has an adequate regulatory program, and when the Commission finds that the State's program is compatible with that of the NRC and is adequate to protect the public health and safety. Section 274g directs the Commission to cooperate with the States in the formulation of standards for protection against radiation hazards to assure that State and Commission programs for radiation protection will be coordinated and compatible. Further, section 274j provides that the Commission shall periodically review such agreements and actions taken by the States under the agreements to ensure compliance with the provisions of this section.

B. On March 29, 1984, the Governor of Utah signed an agreement with the NRC for the assumption of regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. In a letter dated July 17, 1989, Governor Norman H. Bangerter of the State of Utah requested that the Commission enter into an amended agreement with the State pursuant to section 274 of the Atomic Energy Act of 1954, as amended, under which the State would also assume responsibility for regulating the land disposal of these materials received from other persons. The Governor certified that the State of Utah has a program for control of radiation hazards which is adequate to protect the public health and safety with respect to the materials within the State covered by the proposed amendment to the agreement, and that the State of Utah desires to assume regulatory responsibility for such materials. The text of the proposed agreement is shown in Appendix A.

The specific authority requested is for permanent disposal of low-level waste containing the material for which Utah has assumed regulatory authority under the 1984 agreement but not containing

uranium and thorium mill tailings (byproduct material as defined in section 11e.(2) of the Act). The State does not wish to assume authority over uranium recovery activities. The State, however, reserves the right to apply at a future date to NRC for an amended agreement to assume authority in this area. The proposed amendment to the agreement covers the following areas:

1. Amending Article I of the Agreement of March 29, 1984 to add land disposal of source, byproduct and special nuclear material received from other persons to the list of materials covered by the agreement.

2. Amending Article II of the Agreement of March 29, 1984 to delete land disposal of source, byproduct and special nuclear material received from other persons from the list of materials and activities over which the Commission continues to retain regulatory authority and responsibility.

3. Specifies the effective date of the amended agreement.

C. Utah Code Annotated (UCA) 26-1-27 through 26-1-29 authorizes the State Department of Health to issue licenses to, and perform inspections of (see, also, UCA 26-23-8), users of radioactive materials under the 1984 agreement and otherwise carry out a total radiation control program. Utah Radiation Control Rules URC-10 through URC-80 adopted November 8, 1982 under authority of 26-1-27 through 26-1-29 Utah Code Annotated 1953, as amended, provide standards, licensing, inspection, enforcement and administrative procedures for agreement and non-agreement materials. These regulations have been determined to be compatible with the Commission's regulations. Utah Radiation Control Rules R447-10 through R447-70 were amended and reclassified in July 1989. Regulations R447-25 were adopted in July 1988 for licensing requirements for land disposal of radioactive waste.

D. On March 29, 1984, under enabling legislation in UCA 26-1-29, Utah assumed regulatory authority for byproduct material as defined in section 11e.(1) of the Act, source material and special nuclear material in quantities not sufficient to form a critical mass. The program audits conducted since that time have resulted in an NRC finding that the Utah radiation control program is compatible with that of the NRC and is adequate to protect public health and safety. In addition to Utah's agreement program, Utah is involved in several environmental radiation issues including monitoring indoor radon, monitoring uranium mill tailings, particularly at the Vitro uranium mill, and monitoring and

assessment of the State environmental program. In addition, the Department issued to Envirocare of Utah, Inc., a license to receive, store, and dispose, by shallow land burial, naturally occurring radioactive material (NORM) waste with a radium-226 concentration not to exceed 2,000 picocuries per gram. NORM material is not regulated by the Nuclear Regulatory Commission.

E. The State's proposed programs for low-level radioactive waste disposal are assessed under Criteria numbers 9, "Radioactive Waste Disposal" and 20 "Qualification of Regulatory and Inspection Personnel." Additional criteria relating to prior evaluation of uses of radioactive materials, inspection and administration,² are addressed as appropriate to supplement information found in the staff assessment of the original Utah proposed agreement published in the Federal Register on December 30, 1983 (48 FR 57674-57684).

II. NRC Staff Assessment of the Proposed Amendment to Utah Program for Control of Agreement Materials

Reference: Criteria for Guidance of States and NRC in Discontinuance of NRC Regulatory Authority and Assumption Thereof by States Through Agreement.³

Objectives

9. Radioactive Waste Disposal

(a) Waste disposal by material users. The standards for the disposal of radioactive materials into the air, water and sewer, and burial in the soil shall be in accordance with 10 CFR part 20. Holders of radioactive material desiring to release or dispose of quantities or concentrations of radioactive materials in excess of prescribed limits shall be required to obtain special permission from the appropriate regulatory authority.

Requirements for transfer of waste for the purpose of ultimate disposal at a land disposal facility (waste transfer and manifest system) shall be in accordance with 10 CFR part 20.

The waste disposal standards shall include a waste classification scheme and provisions for waste form,

¹ Criteria 13, "Prior Evaluation of Hazards and Uses Exceptions," 14, "Evaluation Criteria," 16, "Inspection, Purpose, Frequency," and 27, "Coverage, Amendments Reciprocity."

² NRC Statement of Policy published in the Federal Register January 23, 1981 (46 FR 7540-7546). A correction was published July 16, 1981 (46 FR 36969) and a revision of Criterion 9 published in the Federal Register July 21, 1983 (48 FR 33376).

¹ A. Byproduct materials as defined in 11e.(1)

B. Byproduct materials as defined in 11e.(2)

C. Source materials; and

D. Special nuclear materials in quantities not sufficient to form a critical mass

applicable to waste generators, that is equivalent to that contained in 10 CFR part 61.

(b) Land Disposal of waste received from other persons. The State shall promulgate regulations containing licensing requirements for land disposal of radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and applicable supporting sections set forth in 10 CFR part 61. Adequate financial arrangements (under terms established by regulation) shall be required of each waste disposal site licensee to ensure sufficient funds for decontamination, closure and stabilization of a disposal site. In addition, Agreement State financial arrangements for long-term monitoring and maintenance of a specific site must be reviewed and approved by the Commission prior to relieving the site operator of licensed responsibility (section 151(a)(2), Pub. L. 97-425).

The Utah regulations contain provisions relating to the disposal of radioactive materials into the air, water and sewer and burial in soil which are essentially uniform with those of 10 CFR part 20. Waste transfer and manifest system requirements for transfer of waste for ultimate disposal at a land disposal facility are included in the Utah regulations. The waste disposal requirements include a waste classification scheme and provisions for waste form equivalent to that in 10 CFR part 61.

The Utah regulations provide for land disposal of low-level radioactive waste received from other persons which are compatible with the applicable technical definitions, performance objectives, technical requirements and supporting sections set out in 10 CFR part 61. The Utah regulations include provisions for financial arrangements for decontamination, closure and stabilization. Under the Nuclear Waste Policy Act of 1982 (Pub. L. 97-425), the financial arrangements for long term monitoring and maintenance at specific sites in Utah will be subject to Commission review and approval prior to Utah relieving the site operator of licensed responsibility.

References: URC-R447-15-310, URC-R447-15-302, URC-R447-15-303, URC-R447-304, URC-R447-15-305, URC-R447-15-306, URC-R447-15-307, URC-R447-15-308, URC-R447-15-309, URC-R447-15-311, URC-R447-25; Section 151(a)(2), Public Law 97-425.

Prior Evaluation of Uses of Radioactive Materials

13. Prior Evaluation of Hazards and Uses, Exceptions

In the present state of knowledge, it is necessary in regulating the possession and use of byproduct, source and special nuclear materials that the State regulatory authority require the submission of information on, and evaluation of, the potential hazards and the capability of the user or possessor prior to his receipt of the materials. This criterion is subject to certain exceptions and to continuing reappraisal as knowledge and experience in the atomic energy field increase. Frequently there are, and increasingly in the future there may be, categories of materials and uses as to which there is sufficient knowledge to permit possession and use without prior evaluation of the hazards and the capability of the possessor and user. These categories fall into two groups—those materials and uses which may be completely exempt from regulatory controls, and those materials and uses in which sanctions for misuse are maintained without pre-evaluation of the individual possession or use. In authorizing research and development or other activities involving multiple uses of radioactive materials, where an institution has people with extensive training and experience, the State regulatory authority may wish to provide a means for authorizing broad use of materials without evaluating each specific use.

Prior to the issuance of a specific license for the disposal of radioactive materials, the Utah Bureau of Radiation Control will require the submission of information on, and will make an evaluation of, the potential hazards of such uses, and the capability of the applicant.

References: URC-447-25, Utah Program Statement, section III.D "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

14. Evaluation Criteria

In evaluating a proposal to use radioactive materials, the regulatory authority shall determine the adequacy of the applicant's facilities and safety equipment, his training and experience in the use of the materials for the purpose requested, and his proposed administrative controls. States should develop guidance documents for use by license applicants. This guidance should be consistent with NRC licensing and regulatory guides for various categories of licensed activities.

In evaluating a proposal for disposal of radioactive material, the Utah Bureau of Radiation Control will make the findings required by URC-R447-25-11, including, among others, findings that the issuance of the license will not constitute an unreasonable risk to the health and safety of the public and that the applicant is qualified by reason of training and experience to carry out the disposal operations requested in a manner that protects health and minimizes danger to life or property.

Other special requirements for the issuance of specific licenses are contained in the regulations.

References: URC-R447-25, *see*, especially, R447-25-11, Utah Program Statement, Section III.D. "Procedures for Review of a Low-Level Radioactive Waste Disposal License Application."

Inspection

16. Purpose, Frequency

The possession and use of radioactive materials shall be subject to inspection by the regulatory authority and shall be subject to the performance of tests, as required by the regulatory authority. Inspection and testing is conducted to determine and to assist in obtaining compliance with regulatory requirements. Frequency of inspection shall be related directly to the amount and kind of material and type of operation licensed, and it shall be adequate to insure compliance.

Utah low-level waste disposal licensees will be subject to inspection by the Bureau of Radiation Control. Upon instruction from the Bureau, licensees shall perform or permit the Bureau to perform such reasonable tests and surveys as the Bureau deems appropriate or necessary. The frequency of inspections is dependent upon the type and scope of the licensed activities and will be at least as frequent as inspections of similar licensees by NRC. Generally, inspections will be unannounced.

References: Utah Program Statement, section III.E "Compliance Program for a Low-Level Radioactive Waste Disposal Facility."

Personnel

20. Qualifications of Regulatory and Inspection Personnel

The regulatory agency shall be staffed with sufficient trained personnel. Prior evaluation of applications for licenses or authorizations and inspection of licensees must be conducted by persons possessing the training and experience relevant to the type and level of radioactivity in the proposed use to be

evaluated and inspected. This requires competency to evaluate various potential radiological hazards associated with the many uses of radioactive material and includes concentrations of radioactive materials in air and water, conditions of shielding, the making of radiation measurements, knowledge of radiation instruments—their selection, use, and calibration—laboratory design, contamination control, other general principles and practices of radiation protection, and use of management controls in assuring adherence to safety procedures. In order to evaluate some complex cases, the State regulatory staff may need to be supplemented by consultants or other State agencies with expertise in geology, hydrology, water quality, radiobiology, and engineering disciplines.

To perform the functions involved in evaluation and inspection, it is desirable that there be personnel educated and trained in the physical and/or life sciences, including biology, chemistry, physics and engineering, and that the personnel have had training and experience in radiation protection. For example, the person who will be responsible for the actual performance of evaluation and inspection of all of the various uses of byproduct, source and special nuclear material which might come to the regulatory body should have substantial training and extensive experience in the field of radiation protection. It is desirable that such a person have a bachelor's degree or equivalent in the physical or life sciences, and specific training in radiation protection.

It is recognized that there will also be persons performing a more limited function in evaluation and inspection. These persons will perform the day-to-day work of the regulatory program and deal with both routine situations as well as some which will be out of the ordinary. These persons should have a bachelor's degree or equivalent in the physical or life sciences, training in health physics, and approximately two years of actual work experience in the field of radiation protection.

The foregoing are considered desirable qualifications for the staff who will be responsible for the actual performance of evaluation and inspection. In addition, there will probably be trainees associated with regulatory program who will have an academic background in the physical or life sciences as well as varying amounts of specific training in radiation protection but little or no actual work experience in this field. The background and specific training of these persons

will indicate to some extent their potential role in the regulatory program. These trainees, of course, could be used initially to evaluate and inspect those applications of radioactive materials which are considered routine or more standardized from the radiation safety standpoint, for example, inspection of industrial gauges, small research programs, and diagnostic medical programs. As they gain experience and competence in the field, trainees could be used progressively to deal with the more complex or difficult types of radioactive material applications. It is desirable that such trainees have a bachelor's degree or equivalent in the physical or life sciences and specific training in radiation protection. In determining the requirement for academic training of individuals in all of the foregoing categories proper consideration should be given to equivalent competency which has been gained by appropriate technical and radiation protection experience.

It is recognized that radioactive materials and their uses are so varied that the evaluation and inspection functions will require skills and experience in the different disciplines which will not always reside in one person. The regulatory authority should have the composite of such skills either in its employ or as its command, not only for routine functions, but also for emergency cases.

Licensing and Regulation of Permanent Disposal of Low-Level Radioactive Waste—(a) Number of Personnel. There are approximately 230 specific licenses in the State of Utah. The Bureau of Radiation Control has responsibility for the low-level waste (LLW) management regulatory program as a joint function of Radioactive Materials and Machine Licensing Section and Environmental Monitoring and Mill Tailings Management Section. The assessment of the regulatory framework is included under Criterion 9, "Radioactive Waste Disposal." The Bureau of Radiation Control has identified seven staff members who will provide supervision, technical support and administrative assistance during the various phases of regulating a licensed low-level waste disposal facility. These personnel and summaries of their duties are:

Larry F. Anderson: Director, Bureau of Radiation Control. Responsible for administration of Bureau programs.

Mark S. Day: Environmental Health Engineer. Responsible for the Utah's inactive uranium mill tailings remedial action project.

Dan L. Finerfrock: Environmental Health Manager, Environmental Monitoring and Mill Tailings Management Section. Responsible for radon-in-residences monitoring, statewide environmental radiation monitoring, licensing and inspection of low-level radioactive waste disposal facilities, and inactive uranium mill tailings remedial action programs.

Blaine N. Howard: Health Physicist. Responsible for licensing and inspection in materials program.

John D. Hultquist: Environmental Health Scientist. Responsible for inspection of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Craig W. Jones: Environmental Health Manager, Radioactive Materials and Machine Licensing Section. Responsible for the Agreement State program including licensing and inspection of low-level disposal facilities.

Raymond G. Nelson: Environmental Health Scientist. Responsible for regulation of low-level waste disposal facilities, environmental monitoring and inactive uranium mill tailings remedial action project.

Cindy Wignall: Environmental Health Technician. Responsible for supporting both sections as a technical assistant in meeting the Bureau's goals.

In addition, Utah has identified staff with expertise in various disciplines within the Department and other State agencies for support during the pre-operational and licensing stage. Expertise in disciplines not provided by Utah personnel either on staff or covered by agreements with other State agencies will be provided by contracts with the State.

(b) *Training.* The academic and specialized short course training for those persons involved in the administration, licensing and inspection of low-level radioactive waste disposal facilities is shown below.

Larry F. Anderson—B.S. Chemistry, MPA (Health), Brigham Young University.

NIOSH Course 549, *Recognition, Evaluation, and Control of Occupational Hazards*. October 1972.

NIOSH Course 582, *Sampling and Evaluating Airborne Asbestos Dust*. April 10-12, 1973.

Utah State Division of Health, *Visible Emission Evaluation Course*. June 19, 1973.

American Industrial Hygiene

- Association, *Industrial Toxicology Seminar*. A 24-hour course ending April 30, 1975.
- OSHA, *Fundamentals of Occupational Injury Investigation*. Short course ending April 1, 1977.
- U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course ending January 27, 1978.
- U.S. Environmental Protection Agency, *Grants Administration Seminar*. A 16-hour course ending May 16, 1989.
- Safety International Training Center, *Hydrogen Sulfide and Equipment for Instructors*. A 12-hour course ending June 19, 1979.
- Rocky Mountain Center for Occupational and Environmental Health, University of Utah, *Health and Exposures in the Smelter Environment*. A 20-hour course ending March 29, 1980.
- U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides*. A 40-hour course held in January 1984.
- U.S. Nuclear Regulatory Commission, *Industrial Radiography*. A 40-hour course held May 1985.
- Harvard School of Public Health, *Biological Effects of Ionizing Radiation*. A 40-hour course held in March 1989.
- Mark S. Day—B.S. Civil and Environmental Engineering, Utah State University.
- Center for Professional Advancement, *Hydraulic Conveying*. A 1-week course in 1974.
- University of California, *Resolution of Construction Claims*. A 1-week course in 1983.
- Management Consultants Incorporated, *Federal Procurement of Construction Projects*. A 1-week course in 1985.
- Air Force Institute of Technology, *Contingency Engineering*. A 2-week course in 1986.
- Air Force Institute of Technology, *Hazardous Waste Management*. A 2-week course in 1986.
- Dane L. Finerfrock—B.S. Meteorology, B.S. Biology, University of Utah.
- Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 10-week course ending April 1981.
- U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course ending August 8, 1980.
- U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography*. A 40-hour course held on August 17, 1980.
- Western Interstate Energy Board, *Workshop on Low-Level Radioactive Waste*. A 16-hour course ending July 16, 1980.
- U.S. Department of Health, Education and Welfare, *Basic Course for Investigators: Diagnostic X-Ray Surveillance*. A 80-hour course ending March 14, 1980.
- U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 80-hour course ending in September, 1979.
- U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials*. A 40-hour course ending on November 16, 1984.
- U.S. Nuclear Regulatory Commission, *License Inspection Procedures*. A 40-hour course ending on June 18, 1985.
- U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.
- Blaine N. Howard—B.S. Math and Physics, Ricks College. M.S. Radiological Health, New York University. M.S. Physics and Math, Brigham Young University.
- Bureau of Radiological Health, *Medical X-Ray Protection*. Held October 30-November 10, 1972.
- U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course held in 1978.
- National Legislative Conference, *States Role in Radioactive Material Management*. Held December 9-11, 1974.
- U.S. Environmental Protection Agency, *Drinking Water Regulations and Radioanalytical Workshop*. Held January 10-12, 1978.
- X-Ray Workshop, Richfield, Utah. March 14-15, 1979.
- Actinides in Man and Animals Workshop, Snowbird, Utah. October 15-17, 1979.
- U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides*. A 40-hour course ending September 12, 1980.
- NWTS Annual Information Meeting, Columbus, Ohio. December 8-10, 1980.
- Waste Management 1981—American Nuclear Society, Tucson, Arizona. February 23-27, 1981.
- U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 80-hour course ending in September 1982.
- U.S. Nuclear Regulatory Commission, *Inspection Procedures*. A 40-hour course ending on July 30, 1982.
- U.S. Nuclear Regulatory Commission, *Radon Monitoring*. A 40-hour course ending in November 1982.
- Conference of Radiation Control Program Directors, *Radiation Instruments*. A 24-hour course ending September 1983.
- U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging*. A 40-hour course ending in November 1988.
- U.S. Nuclear Regulatory Commission, *Safety Aspects of Industrial Radiography*. A 40-hour course ending September 1989.
- John D. Hultquist—B.S. Environmental Science/Biology, University of Tennessee.
- U.S. Environmental Protection Agency, *Basic Risk and Decision Making*. A 16-hour course ending in March 1988.
- Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors*. An 8-hour course ending March 1989.
- U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.
- U.S. Environmental Protection Agency, *RCRA Ground Water Monitoring*. A 24-hour course ending in April 1989.
- Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 5-week course ending August 1989.
- U.S. Department of Energy, *First Responders WIPP Training*. An 8-hour course ending August 1989.
- U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders*. A 40-hour course ending in September 1989.
- Craig W. Jones—B.S. Biology, M.S.P.H. (Industrial Hygiene), University of Utah.
- U.S. Nuclear Regulatory Commission, *Radiological Emergency Response Operation Training Course*. A 64-hour course ending August 8, 1980.
- Department of Health and Human Services, *Radiopharmaceutical Quality Assurance*. A 16-hour course ending November 1984.
- U.S. Nuclear Regulatory Commission, *Inspection Procedures*. A 40-hour course ending in February 1985.
- U.S. Environmental Protection Agency, *Air Surveillance for Hazardous Materials*. A 40-hour course ending in April 1985.
- U.S. Nuclear Regulatory Commission, *Medical Uses of Radionuclides*. A 40-hour course ending June 1985.
- Oak Ridge Associated Universities, *Health Physics and Radiation Protection*. A 5-week course ending

August 1985.

U.S. Nuclear Regulatory Commission, *Introduction Licensing Practices and Procedures*. A 40-hour course ending in September 1985.

U.S. Nuclear Regulatory Commission, *Radiation Protection Engineering*. A 40-hour course ending in November 1986.

U.S. Nuclear Regulatory Commission, *Gas and Oil Well Logging*. A 40-hour course ending in November 1987.

U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials*. A 40-hour course ending in August 1988.

Raymond G. Nelson—Completed 2 years towards B.S. in Geophysics, University of Utah.

U.S. Environmental Protection Agency, *Basic Risk and Decision Making*. A 16-hour course ending in September 1988.

Utah Division of Comprehensive Emergency Management, *Fundamental Course for Radiological Monitors*. An 8-hour course ending March 1989.

U.S. Environmental Protection Agency, *Reducing Radon in Structures*. A 24-hour course ending in March 1989.

U.S. Environmental Protection Agency, *RCRA Ground Water Monitoring*. A 24-hour course ending in April 1989.

U.S. Nuclear Regulatory Commission, *Inspection Procedures*. A 40-hour course ending in June 1989.

U.S. Nuclear Regulatory Commission, *Transportation of Radioactive Materials*. A 40-hour course ending in August 1989.

U.S. Department of Energy, *First Responders WIPP Training*. An 8-hour course ending in August 1989.

U.S. Environmental Protection Agency, *Hazardous Material Response for First Responders*. A 40-hour course ending in September 1989.

Reference: Utah Program Statement, section II.D "Low-Level Radioactive Waste Management," section IV "Staffing, Supervision, and Equipment for a Low-Level Waste Program," and Appendix E.

Administration

27. Coverage, Amendments, Reciprocity

The proposed amendment to the Utah agreement provides for the assumption of regulatory authority over land disposal of source, byproduct and special nuclear material received from other persons.

Reference: Proposed Amendment to Agreement, section I.

III. Staff Conclusion

Section 274d of the Atomic Energy Act of 1954, as amended, states:

The Commission shall enter into an agreement under subsection b of this section with any State if—

(1) The Governor of that State certifies that the State has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the materials within the State covered by the proposed agreement, and that the State desires to assume regulatory responsibility for such materials; and

(2) the Commission finds that the State program is in accordance with the requirements of subsection O. and in all other respects compatible with the Commission's program for the regulation of such materials, and that the State program is adequate to protect the public health and safety with respect to the materials covered by the proposed agreement.

The staff has concluded that the State of Utah meets the requirements of section 274 of the Act. The State's statutes, regulations, personnel, licensing, inspection and administrative procedures are compatible with those of the Commission and adequate to protect the public health and safety with respect to the materials covered by the proposed amendment to the Utah agreement. Since the State is not seeking authority over uranium milling activities, subsection O. is not applicable to the proposed amendment to the Utah amended agreement.

Dated at Rockville, Maryland, this 7th day of November 1989.

For the U.S. Nuclear Regulatory Commission.

Carlton Kammerer,

Director, State, Local and Indian Tribe Programs, Office of Governmental and Public Affairs.

Appendix A

Amendment to Agreement Between the United States Nuclear Regulatory Commission and the State of Utah for Discontinuance of Certain Commission Regulatory Authority and Responsibility Within the State Pursuant to Section 274 of the Atomic Energy Act of 1954, as Amended

Whereas, the United States Nuclear Regulatory Commission (hereinafter referred to as the Commission) entered into an Agreement (hereinafter referred to as the Agreement of March 29, 1984) with the State of Utah under section 274 of the Atomic Energy Act of 1954, as amended (hereinafter referred to as the Act), which Agreement became effective on April 1, 1984, and provided for discontinuance of the regulatory authority of the Commission within the State

under Chapters 6, 7, and 8 and Section 161 of the Act with respect to byproduct materials as defined in section 11e.(1) of the Act, source materials, and special nuclear materials in quantities not sufficient to form a critical mass; and

Whereas, the Governor of the State of Utah is authorized under Utah Code Annotated 26-1-29 to enter into this amendment to the Agreement of March 29, 1984, between the Commission and the State of Utah; and

Whereas, The Governor of the State of Utah has requested this amendment in accordance with section 274 of the Act by certifying on (date to be inserted) that the State of Utah has a program for the control of radiation hazards adequate to protect the public health and safety with respect to the land disposal within the State of source, byproduct and special nuclear material received from other persons and that the State desires to assume regulatory responsibility for such materials; and

Whereas, The Commission found on (date to be inserted), that the program for regulation of materials covered by this amendment is in accordance with the requirements of the Act and in all other respects compatible with the Commission's program for the regulation of such materials and is adequate to protect public health and safety; and

Whereas, The State and the Commission recognize the desirability and importance of cooperation between the Commission and the State in the formulation of standards for protection against hazards of radiation and in assuring that the State and Commission programs for protection against hazards of radiation will be coordinated and compatible; and

Whereas, this amendment to the Agreement of March 29, 1989, is entered into pursuant to the provisions of the Atomic Energy Act of 1954, as amended.

Now, therefore, it is hereby agreed between the Commission and the Governor of the State, acting on behalf of the State, as follows:

Section 1. Article I of the Agreement of March 29, 1984, is amended by deleting "and" at the end of paragraph B., by adding "and," after the words "critical mass" in paragraph C., and by inserting the following new paragraph immediately after paragraph C.:

D. The land disposal of source, byproduct and special nuclear material received from other persons.

Section 2. Article II of the Agreement of March 29, 1984, is amended by deleting paragraph E. and by redesignating paragraph F. as paragraph E.

This amendment shall become effective on (date to be inserted), and shall remain in effect unless and until such time as it is terminated pursuant to Article VIII of the Agreement of March 29, 1984.

Done at Salt Lake City, Utah, in triplicate, this _____ day of _____, 1989.

For the United States Nuclear Regulatory Commission.

Kenneth M. Carr,
Chairman

For the State of Utah.

Norman H. Bangerter,
Governor

[FR Doc. 89-26795 Filed 11-14-89; 8:45 am]

BILLING CODE 7590-01-M

THE PRESIDENT'S EDUCATION POLICY ADVISORY COMMITTEE

Meeting and Establishment

AGENCY: The President's Education Policy Advisory Committee.

ACTION: Notice of meeting.

SUMMARY: The President's Education Policy Advisory Committee was formed under Executive Order 12687 and signed by the President of the United States on August 15, 1989.

DATE: The first meeting will be held on November 21, 1989.

ADDRESS: The meeting is currently scheduled for 1:00-4:00 in Room 2010 of the New Executive Office Building, 17th and Pennsylvania Avenues, NW., Washington, D.C.

FOR FURTHER INFORMATION CONTACT: Rae Nelson at the White House Office of Policy Development. The phone number is (202) 456-7777. For clearance purposes, please notify Rae Nelson no less than twenty-four hours of the meeting. Please provide over the phone, your social security number, date of birth, and name as read on your driver's license. When entering the building, you will be required to show picture identification.

SUPPLEMENTARY INFORMATION: The agenda will include follow-up to the President's Education Summit with Governors that was held in Charlottesville, Virginia. An item of importance will be the Committee's future areas of concentration and organization. Miscellaneous items that are brought to the table will also be topics of discussion.

Roger B. Porter,
Assistant to the President for Economic and Domestic Policy.

[FR Doc. 89-27033 Filed 11-14-89; 8:45 am]

BILLING CODE 3127-01-M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34-27421; File No. SR-DTC-87-15]

Self-Regulatory Organizations; Depository Trust Co.; Order Granting Permanent Approval of Tax Exempt Dividend Service

November 2, 1989.

The Depository Trust Company ("DTC"), on October 19, 1989, filed a proposed rule change with the Commission pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"). The proposal would allow DTC to operate its Tax Exempt Dividend Service ("TEDS") on a permanent basis. Notice of the proposal was published in the *Federal Register* on November 18, 1987.¹ No comments were received. This order approves the proposal.

I. Description

The proposed rule change will allow the permanent operation of TEDS. TEDS enables DTC participants to receive, on behalf of certain tax exempt beneficial owners whose securities are held at DTC, 100% of their Canadian dividend and similar payments on payable date through DTC's dividends payment system (subject to foreign exchange conversion rate limitations). Currently, TEDS is operating as a pilot program.²

Holders of certain Canadian securities are subject to a 15% withholding tax on Canadian dividends, interest and other distributions. The Canadian laws require that the Canadian payor withhold taxes equal to 15% of the distribution for payment to Revenue Canada. Certain entities however, including certain U.S. entities, are entitled to an exemption from the tax and may receive from Canadian payors 100% of the distribution. Traditionally, exempted holders were required to register securities in their name or the name of a "special" (exempt) nominee to avoid automatic withholding by the payor. Recently, however, Canadian authorities established procedures permitting Canadian payors to observe the exemption on certain payments to the nominees of United States securities depositories.

TEDS is designed to enable DTC to receive from Canadian issuers and pass through to its participants on payable date the full amount (subject to foreign exchange conversion rate limitations) due on Canadian securities owned by

certain tax-exempt investors. To receive a full payment on securities not subject to withholding, a participant must certify to DTC that a certain quantity of its position qualifies for the exemption. DTC will establish a separate position for the participant to record the securities that are exempt from withholding. Canadian payors will send 100% of payments attributable to securities registered in the name of the depository's nominee to DTC's Canadian TEDS agent. The agent, on certification from DTC, will pay DTC 100% of the amount attributable to the exempt securities and 85% of the amount (100% minus 15% for the Canadian withholding tax) for those securities that are not exempt. DTC will credit the appropriate 100% and 85% payments to the participant through DTC's dividend settlement system.

II. DTC's Rationale

DTC states that the main purpose of TEDS is to eliminate a disincentive to the immobilization of Canadian securities at DTC. DTC believes that the proposal will effect the purposes of Section 17A(e) of the Act to encourage immobilization of securities certificates in the processing of securities settlements.

III. Discussion

The Commission believes that DTC's proposal is consistent with Section 17A of the Act in that it promotes the prompt and accurate clearance and settlement of securities transactions while ensuring the safeguarding of funds and securities in DTC's possession or control. The proposal will further encourage the goal of immobilization of securities certificates.

Before the 1980 Canada-USA Income Tax Convention and DTC's introduction of TEDS, beneficial owners of securities on deposit at DTC who were exempt from the Canadian withholding tax received payments minus the withheld amount and had to submit claims to the Canadian government for a refund. The inevitable delay between withholding and refunds, along with the inconvenience and expense of claiming a refund, prompted some DTC participants to consider withdrawing securities from DTC for re-registration in physical certificate form in their own or special nominee name in order to avoid the withholding tax. The Commission believes that TEDS will discourage DTC participants from removing Canadian securities from DTC to avoid the withholding tax.

The Commission had delayed approval of the proposed rule change on

¹ See Securities Exchange Act Release No. 25109 (November 9, 1987), 52 FR 44257.

² See Securities Exchange Act Release No. 24748 (July 27, 1987), 52 FR 28888.

a permanent basis, in part, because DTC's rules require that DTC-eligible securities must use a transfer agent located in the United States. Insofar as Canadian issuers do not employ U.S. transfer agents, such a requirement would preclude Canadian issues from becoming DTC-eligible. DTC recently amended its rules to delete this as a requirement for DTC-eligible securities.³ Accordingly, the Commission believes that the TEDS program should be approved on a permanent basis.

IV. Conclusion

For the foregoing reasons, the Commission finds that DTC's proposal (File No. SR-DTC-87-15) is consistent with section 17A of the Act and the rules and regulations thereunder in that it promotes the prompt and accurate clearance and settlement of securities transactions and the safeguarding of funds and securities related thereto.

It Is Therefore Ordered, pursuant to section 19(b)(2) of the Act, that DTC's proposed rule change (File No. SR-DTC-87-15) be, and hereby is, approved.

For the Commission, by the Division of Market Regulation, pursuant to the delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26743 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27426; [File No. SR-DTC-89-20]]

Self-Regulatory Organizations; Depository Trust Company; Filing of and Immediate Effectiveness of Proposed Rule Change Concerning the Distribution of Security Position Listings to Resolution and Indenture Trustees

November 7, 1989.

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² notice is hereby given that on October 24, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission ("Commission") a proposed rule change. The proposal would clarify DTC's authority to provide security position listings ("SPLs") to resolution and indenture trustees for debt obligations on deposit at DTC. The Commission is publishing this notice to

solicit comment on the proposal from interested persons.

Under Rule 2, section 1 of DTC's rules, DTC is authorized to provide to the issuer of any security on deposit at DTC the name of DTC participants holding that issuer's securities and the amount of such securities held. Under the proposal, DTC would clarify that it may use this authority to provide, upon request, SPLs to resolution and indenture trustees for debt obligations on deposit at DTC. DTC believes the proposal would facilitate trustee communication with bondholders. DTC further believes the proposal promotes the prompt and accurate clearance and settlement of securities transactions and, therefore, is consistent with the Act.

The foregoing change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

Interested persons are invited to submit written data, views, and arguments concerning the foregoing. Persons making written comments should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change which are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those which may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying at the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing (SR-DTC-89-20) and of any subsequent amendments also will be available for inspection and copying at DTC's principal office. All submissions should refer to file number SR-DTC-89-20 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority. 17 CFR 200.30-3.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26744 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27431; [File No. SR-DTC-89-18]]

Self-Regulatory Organizations; Depository Trust Company; Filing of a Proposed Rule Change Relating to Invitations to Cover Short Positions

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on November 1, 1989, the Depository Trust Company ("DTC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

DTC is filing herewith a proposed rule change related to procedures for invitations to cover short positions.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, DTC included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. DTC has prepared summaries, set forth in sections (A), (B), and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose for the proposed rule change is to improve DTC's Invitations to Cover Short Positions program so that DTC, at the request of a Participant that has a short position in a certain security, invites tenders at a range of prices to cover the short position from Participants that have a long position in the same security.

The proposed rule change is consistent with the requirements of section 17A of the Act and the rules and regulations thereunder applicable to DTC since the proposed rule change will

³ See Securities Exchange Act Release No. 27405 (October 30, 1989), 54 FR 46662.

¹ 15 U.S.C. 78s(b) (1982).

² 17 CFR 240.19b-4 (1989).

increase efficiency in eliminating certain short positions.

(B) Self-Regulatory Organization's Statement on Burden on Competition

DTC does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The comment letters received from Participants have requested the proposed rule change in order to make DTC's Invitations to Cover Short Positions program more effective.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which DTC consents, the Commission will:

(A) By order, approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room, 450 Fifth Street, NW., Washington, DC. Copies of the filing will also be available for inspection and copying at the principal office of DTC. All submissions should refer to File No. SR-DTC-89-18 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26745 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27430; File No. SR-MCC-89-13]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by Midwest Clearing Corporation Relating to Trade Recording Fees for Portfolios of Securities

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 3, 1989, the Midwest Clearing Corporation, ("MCC") filed with the Securities and Exchange Commission the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

MCC proposes to modify its fee schedule for the trade recording of transactions in portfolios of securities made during the Midwest Stock Exchange's Secondary Trading Session (See SR-MSE-89-02) as follows: \$.20 for the trade recording of transactions in portfolios of securities, regardless of the trade size or number of shares in each trade.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections (A), (B) and (C) below, of the most significant aspects of such statements.

(A) Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change.

The purpose of the proposed rule change is to impose a fee of \$.20 for the trade recording of pre-compared transactions in individual securities comprising a portfolio of securities executed during the Midwest Stock Exchange's Secondary Trading Session. The \$.20 fee is imposed regardless of the trade size range. (Currently, the trade recording fee ranges from \$.20 to \$1.83 depending on the size or range of the trade.)

The proposed fee schedule is consistent with section 17A of the Act in that it provides for the equitable allocation of reasonable dues, fees and other charges among MCC Participants.

(B) Self-Regulatory Organization's Statement on Burden on Competition

MCC does not believe that any burdens will be placed on competition as a result of the proposed rule change.

(C) Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. Any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in

accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC. Copies of such filing will also be available for inspection and copying at the principal office of the above-referenced self-regulatory organization. All submissions should refer to the file number SR-MCC-89-13 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26746 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. 34-27422; File No. SR-NYSE-89-30]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by New York Stock Exchange, Inc. Relating to Rate Establishment Affecting Financial Operation Fees

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 25, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange is setting rates for hardware and additional access to the Exchange Stock Portfolio ("ESP") trading system.¹

The ESP trading facility and equipment fees are as follows:

Hardware	Equipment ¹	Installation	Maintenance
Full system configuration...	\$13,600	\$1,000	² \$2,600
Consultation maintenance...			³ 215

¹ For firms receiving equipment within New York State, the appropriate New York State Sales Tax of 8.25% will be applied.

² Annual.

³ Per hour.

Access fee ¹	Annual fee
First display station.....	² \$12,000
Additional display stations (2-4)	³ 3,000

¹ A maximum of three additional display stations may be connected to the first display station, amounting to a total of four display stations for an annual access fee of \$21,000 (\$12,000 plus \$9,000.) Consequently, if a fifth display station is required, the \$12,000 fee allocated to the first display station must be remitted again.

² The proposed access fee of \$12,000 for the first display station was approved by the Commission in Securities Exchange Act Release No. 27382. See File No. SR-NYSE-89-05.

³ Per station.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization, included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of this proposed rule change is to generate revenues which will cover the cost of the equipment plus an additional 20% which will be used to purchase one additional piece of back-up equipment for every five purchased by users. Additional access revenues will help defray the costs of the associated manpower, and the system and utilities expenses of the ESP System.

The statutory basis for the proposed rule change is section 6(b)(4) of the Act which requires that an Exchange have rules that provide for the equitable allocation of reasonable dues, fees, and other charges among its members, issuers and other persons using its services.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange believes that the proposed rule change will not impose any burden on competition not necessary or appropriate in the furtherance of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing rule change establishes or changes a due, fee or other charge imposed by the Exchange, it has become effective pursuant to section 19(b)(3)(A)(ii) of the Act and subparagraph (e) of Rule 19b-4 under the Act. At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-30 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

¹ ESP trading is the trading of standardized baskets of stock which results in a transfer to the buyer of ownership of each of the component basket stocks. ESP trading is available for executing a standard basket of the stocks comprising the Standard and Poor's ("S&P") 500 Portfolio Index. See File No. SR-NYSE-89-05, approved by the Commission in Securities Exchange Act Release No. 27382 (October 26, 1989).

Dated: November 6, 1989.

Jonathan G. Katz,

Secretary.

[FR Doc. 89-26748 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27433; File No. SR-PHLX-89-32]

**Self-Regulatory Organizations:
Philadelphia Stock Exchange, Inc.;
Order Approving Proposed Rule
Change Relating to the Execution of
Stop and Stop-Limit Orders**

On May 30, 1989, the Philadelphia Stock Exchange, Inc. ("PHLX" or "Exchange") submitted to the Securities and Exchange Commission ("Commission"), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act")¹ and Rule 19b-4 thereunder,² a proposed rule change to provide: (1) A better description of the circumstances under which an options stop or stop-limit order is elected; (2) that options stop and stop-limit orders elected by an opening quote or sale should be executed as part of an opening trade during an opening rotation; and (3) that options stop and stop-limit orders elected by a quote change can be executed without the prior approval of a floor official in extraordinary circumstances, provided subsequent written approval signed by the specialist and floor official is submitted to the Surveillance Department ("Surveillance") on the day of the trade.

The proposed rule change was published for comment in Securities Exchange Act Release No. 26966 (June 23, 1989), 54 FR 28142.³ No comments were received on the proposed rule change.

PHLX Rule 1066 and Options Floor Procedure Advice A-5 ("Advice") define and describe how stop orders and stop-limit orders shall be executed on the Exchange.⁴ The proposed rule change

clarifies and modifies certain aspects of these regulations. First, the proposal amends the Advice to clarify that stop and stop-limit orders may be made eligible for executions by a trade.⁵ Specifically, the proposed change to the Advice states that stop and stop-limit orders to buy become eligible for execution when the option trades at or above the stop price or when the bid price for the option is at or above the stop price; stop and stop-limit orders to sell become eligible for execution when the option trades at or below the stop price or when the offer price for the option is at or below the stop price.

Second, the Exchange proposes to amend the Advice to provide direction for the handling of stop and stop-limit orders made eligible for execution on the opening. Currently, the absence of an Exchange rule has resulted in inconsistencies among the various pits of the Exchange with respect to the handling of stop and stop-limit orders made eligible on the opening. In order to address this problem, the PHLX proposes that stop and stop-limit orders made eligible for execution by an opening sale or quote shall be executed as the opening trade or included with the opening trade. The Exchange believes this proposal will promote uniformity and the prompt execution of option orders by providing that eligible stop and stop-limit orders are to be executed without having to wait until the end of opening rotations.

Third, the PHLX proposes to permit stop and stop-limit orders elected by quotation to be executed without the prior approval of a floor official, provided certain conditions are satisfied. At present, all stop and stop-limit orders elected by quotation must be approved by a floor official prior to execution. The Exchange notes that this requirement can cause functional problems in instances where the market is active and a floor official is not within the immediate area. Specifically, under such circumstances, the specialist faces a dilemma: either to stay at his post and facilitate the execution of the numerous orders there (and thereby not seek a floor official to approve execution of the stop order) or to leave his post to seek out a floor official and disrupt the activity at his post. To address this problem, the PHLX proposes that, in instances where circumstances make it

impractical for a specialist to obtain the prior approval of a floor official to execute either a stop or stop-limit order elected by quotation, such orders may be executed provided that the orders are promptly approved by a floor official following execution.⁶ In each instance where retroactive approval is granted, however, such approval must be received by the Exchange promptly thereafter with written documentation signed by the specialist and floor official. In addition, this documentation must be submitted to Surveillance on the day of the trade.

The Commission agrees with the PHLX that the proposed rule will supply PHLX members with more detailed information about the proper execution of stop and stop-limit orders. The Commission also believes that clarifying the participation of stop and stop-limit orders will result in prompt execution of these orders, thereby contributing to a more fair and orderly market and the protection of investors.

The PHLX's proposal to permit specialists to notify a floor official after executing a stop or stop-limit order elected by a quotation is a departure from its current practice of requiring prior floor official approval. Floor officials are relied upon in these instances to prevent executions that are questionable in terms of the specialist's market making responsibilities or which may constitute overreaching by the specialist. The prophylactic function of floor officials is important to the fair operation of the stop order process in both options and equities.⁷ At the same time, however, it may be difficult for the specialist to seek out a floor official during periods of heavy volume. This is particularly true for the options market, where stop orders can be elected by quotations based, in part, on the movement of the underlying stock.

The PHLX proposal strikes a reasonable balance between the occasional unavailability of a floor official during hectic conditions and the important prophylactic role of the floor official in preapproving stop order elections. The proposal requires that every stop and stop-limit order executed after election by quotation subsequently be approved by a floor official and that this approval be delivered to Surveillance on the day of the transaction. The Commission believes

¹ 15 U.S.C. 78s(b)(1) (1982).

² 17 CFR 240.19b-4 (1989).

³ The Exchange previously filed with the Commission a proposed rule change relating to the execution of stop and stop-limit orders. See Securities Exchange Act Release No. 24441 (May 11, 1987), 52 FR 18767 (File No. SR-PHLX-87-10). The current proposal replaces the 1987 filing and addresses the Commission's concerns with the previous filing.

⁴ A stop order is a contingency order to buy or sell. A stop-limit order is a contingency order to buy or sell a stated number of options contracts at a limited price when the market for a particular option contract reaches a specified price. See PHLX Rule 1066(c)(1).

⁵ As currently written, the Advice refers to stop and stop-limit orders made eligible for execution by a quote change, but does not contain language pertaining to stop and stop-limit orders made eligible for execution by a trade. PHLX Rule 1066(c)(1) and (2), however, state that stop and stop-limit orders are executable once a specified price is reached.

⁶ The PHLX amended its proposal to provide that PHLX Rule 1066 contain similar provisions. See letter from William W. Uchimoto, General Counsel, PHLX, to Mark McNair, Division of Market Regulation, SEC, dated August 8, 1989.

⁷ See, e.g., Securities Exchange Act Release No. 24021 (January 21, 1987), 52 FR 3370.

this will permit the floor official and Surveillance to take whatever action is necessary should either determine the execution to be improper or that the specialist could and should have received floor official approval before the stop-order election. Accordingly, the Commission finds it acceptable for the PHLX to permit floor official approval after execution of a stop or a stop-limit order, subject to the limitations of the proposed rule.

For the above reasons, the Commission finds that the proposed amendment relating to the execution of stop and stop-limit orders is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange, and, in particular, the requirements of section 6⁸ and the rules and regulations thereunder because the change will promote fair and orderly markets and protect investors and the public interest.

It is therefore ordered, pursuant to section 19(b)(2) of the Act,⁹ that the proposed rule change (SR-PHLX-89-32) is approved.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.¹⁰

Dated: November 8, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26759 Filed 11-14-89; 8:45 am]
BILLING CODE 8010-01

**Self-Regulatory Organizations;
Midwest Stock Exchange, Inc.;
Application for Unlisted Trading
Privileges in Over-the-Counter Issues
and to Withdraw Unlisted Trading
Privileges in Over-the-Counter Issues**

November 9, 1989.

On October 14, 1989, the Midwest Stock Exchange, Inc. ("MSE") submitted an application for unlisted trading privileges ("UTP") pursuant to Section 12(f)(1)(C) of the Securities Exchange Act of 1934 ("Act") in the following over-the-counter ("OTC") securities, i.e., securities not registered under Section 12(b) of the Act:

File No.	Symbol	Issuer
7-5428	CHPS	Chips & Technologies \$.01 Par Value.
7-5429	MENT	Mentor Graphics Corp. No Par Value.
7-5430	STJM	St. Jude Medical, Inc. \$.10 Par Value.

The MSE also file a notice on Form 28 withdrawing UTP on the following OTC issues:

File No.	Symbol	Issuer
7-5431	ADBE	Adobe Systems, Inc. \$.10 Par Value.
7-5432	COMS	3 Com Systems \$.10 Par Value.
7-5433	CMCSA	Comcast Corp. \$1.00 Par Value.

In the case of Adobe Systems, Inc., 3 Com Systems and Comcast Corp., replacement issues are being requested as a result of extremely low volume.

Comments

Interested persons are invited to submit on or before November 30, 1989, written comments, data, views and arguments concerning this application. Persons desiring to make written comments should file three copies with the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Commentators are asked to address whether they believe the requested grants of UTP would be consistent with section 12(f)(2), which requires that, in considering an application for extension of UTP in OTC securities, the Commission must consider, among other matters, the public trading activity in such security, the character of such trading, the impact of such extension on the existing markets for such securities, and the desirability of removing impediments to the progress that has been made toward the development of a national market system.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26845 Filed 11-14-89; 8:45 am]
BILLING CODE 8010-01-M

[Release No. 34-27427; File No. SR-NYSE-89-33]

Self-Regulatory Organizations; Filing and Immediate Effectiveness of Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Specialist Job Description

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The proposed rule change consists of revisions to a section of the Specialist Job Description to require (1) quarterly contacts by specialist units, at least one of which is an in-person meeting, with a senior official, of the rank of Corporate Secretary or higher, of each of the specialist units' listed companies, and (2) semi-annual contact off the Floor by specialist units with the 15 largest NYSE member organizations, any other member organizations that are significant customers of the specialist unit, as well as any other member organization that requests such contact.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B, and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In September 1989, the Commission approved NYSE new Rule 106 which set forth specialists' communications

⁸ 15 U.S.C. 78f (1982).

⁹ 15 U.S.C. 78s(b)(2) (1982).

¹⁰ 17 CFR 200.30-3(a)(12) (1989).

responsibilities.¹ The proposed rule change revises the Specialist Job Description to make it consistent with Rule 106, thereby enhancing the specialists' communication function by requiring that the specialist maintain frequent and personal contact with the listed companies and member firm customers that he or she serves. These contacts are expected to help foster an understanding of the specialist function, the operations of the Exchange market, and the markets that are maintained in the listed companies' stocks. In addition, the purpose of the semi-annual contacts between specialist units and the Exchange member organizations is to discuss the service, operational and competitive requirements of the member firms.

The proposed rule change is consistent with section 6(b)(5) of the Act in that it will promote just and equitable principles of trade, remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, protect investors and the public interest by promoting a better understanding of the needs of Exchange-listed companies and its member organizations and foster communications between the specialist, the listed company and the NYSE member firm.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

Comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change constitutes an interpretation with respect to the

meaning and enforcement of Exchange Rule 106 and therefore has become effective pursuant to section 19(b)(3)(A) of the Act and subparagraph (e) of Rule 19b-4 thereunder. At any time within 60 days of the filing of such rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all statements with respect to the proposed rule change that are filed with the Commission and all written communications relating to the proposed rule change between the Commission and any persons, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. section 552 will be available for inspection and copying at the Commission's Public Reference Section, 450 Fifth Street NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-33 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26842 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27428; File No. SR-NYSE-89-32]

Self-Regulatory Organizations; Proposed Rule Change by the New York Stock Exchange, Inc. Relating to Revisions to Its Specialist Performance Evaluation Questionnaire

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 19, 1989, the New York Stock Exchange, Inc. ("NYSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule

change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange has submitted a rule filing proposing the adoption of a new Specialist Performance Evaluation Questionnaire ("SPEQ"), which is administered pursuant to Exchange Rule 103A, in order to enhance the process whereby NYSE Floor brokers evaluate quarterly the performance of specialist units with which they do business.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below and is set forth in sections A, B and C below.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

The purpose of the proposed rule change is to introduce a new SPEQ. The Exchange views the SPEQ process as dynamic and evolutionary in nature, and has, from time to time in the past, introduced revised instruments to ensure the continued viability of its specialist performance evaluation program. The proposed introduction of the SPEQ being filed herein reflects the Exchange's on-going commitment to continually assess its specialist performance evaluation program and develop enhancements as appropriate.

The current SPEQ consists of 28 questions grouped under five functional categories: Dealer Function, Agency Function, Maintaining the Auction Market, Communication Function and Administrative Function. Each of the five functions is weighted equally. The revised SPEQ, developed by the NYSE Market Performance Committee's Subcommittee on Performance Measures and Procedures, in conjunction with consultants from Opinion Research Corporation ("ORC"), consists of 21 questions grouped under the Dealer Function, Service Function,

¹ Rule 106 requires that a representative of each specialist unit contact quarterly one or more senior officials, of the rank of Corporate Secretary or higher, of the issuers of each of their specialty stocks. It also requires that specialist units semi-annually contact, off the floor, representatives of each of the 15 largest NYSE member organizations, representatives of any other NYSE member organization that is a significant customer of the specialist, and representatives of any other member organization which requests such contact. Finally, Rule 106 requires that specialist units semi-annually report contacts made with their listed companies and member firms to the Exchanges. See Securities Exchange Act Release No. 27292 (September 26, 1989), 54 FR 41193.

Competitiveness Function, Communications Function and Administrative Function.

Our new section, the Service Function, encompasses certain questions contained in the Agency and the Maintenance of the Auction Market Sections of the current SPEQ, while emphasizing the specialist's service function. The new Competitiveness Function Section contains questions emphasizing, with respect to the specialist's dealer and agency roles, the need to act in a manner which ensures that pricing and service on the NYSE are truly competitive with other market centers.

Revised Rating Scale and Scoring Methodology

On the current SPEQ, each question is graded on a five-point scale. The current scale is anchored with subjective terms describing a unit's performance, *i.e.*, a grade of 1 is equal to "poor," 2 is "needs improvement," 3 is "adequate," 4 is "good," and 5 is "very good." An overall median score is derived for each unit, as well as a median score reflecting the unit's performance relative to other units. Only a unit's objective median scores have been considered for purposes of Rule 103A (*see discussion below*).

The questions on the new SPEQ will be graded on a scale ranging from 0% to 100%. The 0% to 100% scale will reflect the percentage of time a specialist unit engages in a described behavior. For example, a score of 30% would indicate that a specialist unit engaged in a described behavior 30% of the time. A grade of 100% will be defined as "always" and a grade of 0% will be defined as "never." Some of the questions will be worded negatively, in which case a grade of 0% would be the best possible score, while other questions will be worded positively, in which case a grade of 100% would be the best possible score. It is expected that this new question and rating format will result in a more careful reading of each question by the rating broker, and should provide a greater dispersion of data than is derived from the current SPEQ.

The new SPEQ process will use a relative scoring methodology that would provide each unit with an overall rank, as well as a range of ranks. The range would identify the units whose grades are essentially the same, as opposed to those that are statistically significantly different. For example, a unit that ranked 25th overall would receive a rank of 25, and might receive a range of ranks from 20 to 30, indicating that its score was not statistically significantly

different from a unit that was ranked as high as 20, or as low as 30. Specialist units would not receive an absolute score, such as the median score, as they do under the current process.

Rule 103A

Rule 103A was designed to ensure that a high level of market quality and performance in Exchange-listed securities is achieved and maintained. It is expected that Rule 103A actions to improve a specialist's performance would be based on poor performance relative to other units. A unit might be subject to a performance improvement action if it was ranked among the bottom units in terms of a percentage to be determined by the Exchange and if the unit's range of ranks indicated that the unit was statistically significantly lower than the top ranked units. If, for example, in a universe of 50 units, a unit ranked 48th overall, with a range of ranks from 46 to 50 and specified percentage of 10%, might be subject to a Rule 103A action, whereas a unit ranked 48th with a range of ranks from 40 to 50 would not be.

The Exchange proposes to set actual standards for Rule 103A actions based on SPEQ scores received after two quarters of experience with the new questionnaire. Thus, during this interim period, Rule 103A would not contain standards relating to the SPEQ regarding the initiation of a performance improvement action, although the rule would remain fully operative as to the standards of performance specified therein. With regard to SPEQ scores during this interim period, the Exchange expects that its Market Performance Committee will impose a freeze on the ability of a specialist unit to apply to be allocated the stock of any company which becomes newly listed on the Exchange if that unit is identified as a true bottom performer based on its relative range of ranks.

Mandatory Participation

The Exchange proposes to make broker participation in the new SPEQ mandatory. In a separate filing, the Exchange will propose to amend Rule 476A to provide for summary fines for failure to participate. ORC will administer the SPEQ, and will implement a methodology for filtering out "biased" questionnaires. A biased questionnaire might, for example, be one in which a broker gives all the units perfect high or low scores, or gives the same rating to each question for a given specialist unit, or gives the same pattern of ratings for all the units he rates. A broker whose questionnaire is filtered out would not be deemed to have met

his participation requirement, and would be subject to a fine pursuant to Rule 476A. A member education program will be conducted before the new SPEQ is implemented.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act which requires that an Exchange have rules designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system and, in general, to protect investors and the public interest. The revisions to the SPEQ are consistent with these objectives in that they enhance the Exchange's continuing efforts to improve specialist performance and the NYSE markets.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

Comments were neither solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written

communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552 will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the NYSE. All submissions should refer to File No. SR-NYSE-89-32 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26843 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Release No. 34-27429; File No. SR-PSE-89-29]

**Self-Regulatory Organizations,
Proposed Rule Change by the Pacific
Stock Exchange, Inc. Relating to
Membership Lease Agreements and
Lease Procedures**

Pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 ("Act"), 15 U.S.C. 78s(b)(1), notice is hereby given that on October 26, 1989, the Pacific Stock Exchange, Inc. ("PSE" or "Exchange") filed with the Securities and Exchange Commission ("Commission") the proposed rule change as described in Items I, II and III below, which Items have been prepared by the self-regulatory organization. The Commission is publishing this notice to solicit comments on the proposed rule change from interested parties.

**I. Self-Regulatory Organization's
Statement of the Terms of Substance of
the Proposed Rule Change**

The Exchange has submitted a rule filing proposing to amend the membership rules, contained in Rule IX of the Rules of the Board of Governors, pertaining to revised Membership Lease Agreements. Section 9(c) of Rule IX is amended with respect to the deletion of reference to XYZ Agreements, which have been renamed as "Membership Lease Agreements." There are two proposed subsections of Rule IX, sections 9(d) and 9(e). Proposed section 9(d) covers the effect of a Lessor receiving a suspension or bar, and proposed section 9(e) concerns the ability of a member firm to select a new nominee for a leased seat, should the

firm's current nominee cease relations with the firm.

**II. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The self-regulatory organization has prepared summaries, set forth in sections A, B and C below, of the most significant aspects of such statements.

**A. Self-Regulatory Organization's
Statement of the Purpose of, and
Statutory Basis for, the Proposed Rule
Change**

The amendments to the lease agreements are designed to simplify and streamline the existing XYZ Agreements, and to include two additional provisions not currently covered in the Membership Rules. Rule IX, section 9(c) is amended to replace the existing references to "XYZ Agreements" with references to "Membership Lease Agreements." The new provision at section 9(d) requires that a member must be in good standing in order to lease a seat to another. It further sets forth the procedures to be followed if a seat is currently leased and the Lessor is not in good standing due to a suspension or bar and the lease must be terminated. The new provision at section 9(e) will allow a member firm to replace a nominee as Lessee of a seat, should the firm's current nominee cease to be associated with the firm.

The statutory basis for the proposed rule change is section 6(b)(5) of the Act which requires that an Exchange have rules designed to promote just and equitable principles of trade, and to protect investors and the public interest. In addition, the proposed rule change is designed to comply with section 6(b)(6) of the Act which provides that Exchange members and persons associated with its members shall be appropriately disciplined for violation of the provisions of the Act, and the rules of the Exchange, by limitation of certain activities.

**B. Self-Regulatory Organization's
Statement on Burden on Competition**

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

**C. Self-Regulatory Organization's
Statement on Comments on the
Proposed Rule Change Received from
Members, Participants or Others**

The draft Membership Lease Agreements were distributed to all PSE members and member organizations for comments. No comments were received.

**III. Date of Effectiveness of the
Proposed Rule Change and Timing for
Commission Action**

Within 35 days of the date of publication of this notice in the Federal Register or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding, or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views and arguments concerning the foregoing. Persons making written submissions should file six copies thereof with the Secretary, Securities and Exchange Commission, 450 Fifth Street, NW., Washington, DC 20549. Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 450 Fifth Street, NW., Washington, DC 20549. Copies of such filing will also be available for inspection and copying at the principal office of the PSE. All submissions should refer to File No. SR-PSE-89-29 and should be submitted by December 6, 1989.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Dated: November 7, 1989.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26844 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

**Self-Regulatory Organizations;
Applications for Unlisted Trading
Privileges and of Opportunity for
Hearing; Philadelphia Stock Exchange,
Inc.**

November 8, 1989.

The above named national securities exchange has filed applications with the Securities and Exchange Commission ("Commission") pursuant to section 12(f)(1)(B) of the Securities Exchange Act of 1934 and Rule 12f-1 thereunder for unlisted trading privileges in the following securities:

Mitsubishi Bank, Ltd., American Depositary Shares (File No. 7-5481).

Reading & Bates Corp., Common Stock, \$.05 Par Value (File No. 7-5482).

Franklin Multi Income Trust, Shares of Beneficial Interest, \$.01 Par Value (File No. 7-5483).

Putnam Investment Grade Municipal Trust, Common Shares of Beneficial Interest, No Par Value (File No. 7-5484).

Hibernia Corporation, Class A Voting Common Stock, No Par Value (File No. 7-5485).

These securities are listed and registered on one or more other national securities exchange and are reported in the consolidated transaction reporting system.

Interested persons are invited to submit on or before December 1, 1989, written data, views and arguments concerning the above-referenced application. Persons desiring to make written comments should file three copies thereof with the Secretary of the Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. Following this opportunity for hearing, the Commission will approve the application if it finds, based upon all the information available to it, that the extensions of unlisted trading privileges pursuant to such applications are consistent with the maintenance of fair and orderly markets and the protection of investors.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26846 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17206; File No. 812-7403]

Banner Life Insurance Co., et al.

November 8, 1989.

AGENCY: Securities and Exchange Commission ("SEC" or "Commission").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 ("1940 Act").

Applicants: Banner Life Insurance Company ("Banner Life"); Banner Life Variable Annuity Account ("Variable Account"); and Banner Financial Services Group, Inc. ("Banner Financial").

Relevant 1940 Act Sections: Exemption requested under section 6(c) from sections 26(a)(2) and 27(c)(2) of the 1940 Act.

Summary of Application: Applicants seek an order to permit the assessment from the Variable Account of a charge of up to 1.25% for mortality and expense risks.

Filing Date: The application was filed on September 28, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application or ask to be notified if a hearing is ordered. Any requests must be received by the SEC by 5:30 p.m. on December 4, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request, either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, in the case of an attorney-at-law, by certificate. Request notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC, 450 5th Street, NW., Washington, DC 20549. Banner Life Insurance Company, 1701 Research Boulevard, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Michael V. Wible, Staff Attorney, at (202) 272-2026, or Clifford E. Kirsch, Acting Assistant Director, at (202) 272-2060 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicants' Representations

1. The Variable Account was established by Banner Life as a separate account in connection with the proposed issuance of flexible premium variable annuity contracts ("Contracts"). The Variable Account is registered with the

Commission under the 1940 Act as a unit investment trust.

2. The Variable Account will invest in shares of the Scudder Variable Life Investment Fund ("Fund"). The Fund is an open-end, diversified management investment company with a number of series, or portfolios. The Variable Account has a number of subaccounts, each of which invest solely in a specific corresponding portfolio of the Fund.

3. A contingent deferred sales charge of up to 8.5% of total Premiums paid is imposed on certain full surrenders or partial withdrawals of Account Value to cover expenses relating to the sale of the Contracts, including commissions to registered representatives and other promotional expenses.

4. Banner Life will deduct an administrative charge of \$30 per Contract Year. This charge will be deducted from the Contract Value at the end of each Contract Year prior to the Maturity Date to compensate Banner Life for the administrative services provided to Contract Owners. Banner Life guarantees that this charge will never exceed \$40 per year. Banner Life does not anticipate any profit from this charge.

5. Banner Life imposes a daily charge to compensate it for bearing certain mortality and expense risks under the Contracts. This charge currently is equal to an effective annual rate of 1.15% of the value of the net assets in the Variable Account. This rate may be increased in the future, but is guaranteed never to exceed 1.25%. Of that amount, approximately one-third is attributable to mortality risks, and approximately two-thirds is attributable to expense risks. The mortality risk borne by Banner Life arises from its obligation to make monthly annuity payments regardless of how long all annuitants may live. The expense risk is that the deductions for administration costs under the Contracts may be insufficient to cover the actual future costs incurred by Banner Life.

6. Applicants do not concede the applicability of sections 26(a)(2)(c) and 27(c)(2) of the Act to the mortality and expense risk charge. However, in order to avoid any possibility that questions may be raised as to the potential applicability of those provisions to the charge, Applicants request exemption from those provisions to the extent necessary to permit the assessment of the charge for mortality and expense risks against the assets of the Variable Account.

7. Banner Life argues that the mortality and expense risk charge is a reasonable charge to compensate

Banner Life for the risk that annuitants under the Contracts will live longer as a group than has been anticipated in setting the annuity rates guaranteed in the Contracts and for the risk that administrative expenses will be greater than amounts derived from the administrative charges.

8. Banner Life represents that a charge of up to 1.25% for mortality and expense risks is within the range of industry practice with respect to comparable annuity products. This representation is based upon Banner Life's analysis of publicly available information about similar industry products, taking into consideration such factors as current charge levels, the existence of charge level guarantees, and guaranteed annuity rates. Banner Life will maintain at its administrative offices, available to the Commission, a memorandum setting forth in detail the products analyzed in the course of, and the methodology and results of, its comparative survey.

9. Applicants acknowledge that the surrender charge may be insufficient to cover all the costs relating to the distribution of the Contracts. Applicants also acknowledge that if a profit is realized from the mortality and expense risk charge, all or a portion of such profit may be viewed by the Commission as being offset by distribution expenses not reimbursed by the sales charge.

10. Banner Life has concluded that there is a reasonable likelihood that the proposed distribution financing arrangements will benefit the Variable Account and the Contract Owner. The basis for such conclusion is set forth in a memorandum which will be maintained by Banner Life at its administrative offices and will be available to the Commission.

11. Banner Life also represents that the Variable Account will only invest in management investment companies which undertake, in the event such company adopts a plan under Rule 12b-1 to finance distribution expenses, to have a board of directors (or trustees), a majority of whom are not interested persons of the company, formulate and approve any such plan under Rule 12b-1.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26847 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17202; 812-6934]

Greenwich Capital Acceptance, Inc.; Notice of Application

November 3, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application for Exemption under the Investment Company Act of 1940 (the "1940 Act").

Applicant: Greenwich Capital Acceptance, Inc. ("Applicant") (as depositor of Greenwich CMO Trusts II-VI¹ and similar trusts that will issue mortgage-backed bonds (the "Trusts")).

Relevant 1940 Act Sections: Exemption requested under section 6(c) from all provisions of the 1940 Act.

Summary of Application: Applicant seeks a conditional exemptive order to permit it to establish Trusts which will issue and sell one or more series of bonds collateralized by certain mortgage certificates and which may elect status as a "real estate mortgage investment conduit" under the Internal Revenue Code of 1986, as amended ("REMIC" status). The requested order would also permit Applicant to sell residual interests in the Trusts.

Filing Dates: The application was filed on December 4, 1987, and amended on January 9, July 21, October 27, and November 3, 1989.

Hearing and Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing the SEC's Secretary and serving Applicant with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. or November 27, 1989, and should be accompanied by proof of service on the Applicant, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicant, 600 Steamboat Road, Greenwich, Connecticut 06830.

FOR FURTHER INFORMATION CONTACT: Regina Hamilton, Staff Attorney, at (202) 272-3024, or Karen L. Skidmore, Branch Chief, at (202) 272-3023 (Office of Investment Company Regulation).

¹ Applicant represents that Greenwich CMO Trust I has issued securities on the basis of the exception provided under section 3(c)(5)(C) of the 1940 Act, and is therefore not a party to or a subject of the application.

SUPPLEMENTARY INFORMATION:

Following is a summary of the application. The complete application is available for a fee. One may obtain a copy by going to the SEC's Public Reference Branch or by telephoning the SEC's commercial copier at (800) 231-3282 (in Maryland (301) 258-4300).

Applicant's Representations

1. Applicant, a Delaware corporation incorporated on April 23, 1987, is a direct wholly-owned limited purpose financing subsidiary of Greenwich Capital Markets, Inc., a primary dealer in United States government securities and a registered broker-dealer with the SEC.² Applicant was organized to acquire, own, hold, transfer, assign, pledge and otherwise deal in Mortgage Certificates,³ and to establish business entities to issue and sell instruments representing indebtedness secured by Mortgage Certificates. The Trusts have been or will be formed to issue and sell one or more series (each, a "Series") of bonds ("Bonds"); to own and pledge Mortgage Certificates; and to engage in activities connected with the accomplishment of these purposes and the conservation of the Trusts' assets and their distribution. Although Applicant may establish other entities to issue debt instruments, the order requested by the application would grant relief only in connection with the issuance and sale of Bonds described in the application. Applicant will not issue any Bonds or sell any residual interests in itself.

2. Each Trust will be established under a separate deposit trust agreement ("Trust Agreement") between Applicant, acting as depositor, and a bank or trust company, acting as an owner trustee ("Owner Trustee"). Under the terms of each Trust Agreement, Applicant will convey trust property to the Trust in return for

² Greenwich Capital Markets, Inc. intends to serve, subject to regulatory approval by the Board of Governors of the Federal Reserve System, as an underwriter. Applicant represents that Greenwich Capital Markets, Inc. is not an investment company within the meaning of the 1940 Act.

³ The "Mortgage Certificates" principally collateralizing the Bonds will consist of: (a) "fully-modified pass-through" mortgage-backed certificates guaranteed by the Government National Mortgage Association ("GNMA Certificates"); (b) Mortgage Participation Certificates issued and guaranteed by the Federal Home Loan Mortgage Corporation ("FHLMC Certificates"); and (c) Guaranteed Mortgage Pass-Through Certificates issued and guaranteed by the Federal National Mortgage Association ("FNMA Certificates"). All or a portion of the Mortgage Certificates securing a Series of Bonds may be "partial pool" Mortgage Certificates. Applicant will neither issue nor own stripped mortgage-backed securities as described in the application.

certificates or other instruments evidencing beneficial ownership of such Trust ("Trust Certificates"). The Owner Trustee will enter into a management agreement under which a manager (which may be an affiliate of Applicant or an unrelated third party) will provide certain administrative services to the Owner Trustee in connection with the Bonds.

3. Each Trust may issue one or more Series under the terms of an indenture, as supplemented by one or more Series supplements ("Indenture"). An independent trustee (the "Bond Trustee"), or an independent custodian on behalf of the Bond Trustee, will hold the Bond Collateral (defined below) pledged to it to secure each Series of Bonds, subject to the terms of the Indenture.

4. If a Trust elects REMIC status, one class ("Class") of the Bonds of the Series issued by such Trust may be designated as the "residual interest" in the REMIC and will be referred to as the "Residual Bonds"; all other Classes of Bonds of such Series will be designated as the "regular interests" in the REMIC and will be referred to as "Regular Bonds." All Bonds of a Series for which no REMIC election is made will also be included in the term "Regular Bonds" (the Residual Bonds, together with the Trust Certificates, the "Residual Interests"). Residual Bonds will be entitled to the excess cash flow⁴ remaining after payment of the principal of and interest on all Regular Bonds of such Series, together with any remaining value in the Bond Collateral after payment in full of the Regular Bonds of such Series.

5. Each Series of Bonds will consist of one or more Classes of Bonds, including one or more Classes of Compound Interest Bonds, Non-Compound Interest Bonds, Zero Coupon Bonds, Fixed Interest Rate Bonds, Variable Interest Rate Bonds, and Residual Bonds.⁶ Each

Class of Bonds may bear a separate interest rate and stated maturity as indicated in the related prospectus for such Bonds. Principal payments may be allocated to more than one Class of Bonds, but such allocation will be consistent with the retirement of each Class not later than its stated maturity date.

6. Each Series of Bonds will be secured separately by assignments to the Bond Trustee of any combination of Mortgage Certificates, and may also be secured by a collection account ("Collection Account"), debt service reserve fund, reserve funds, and certain types of investments specified in the Indenture for such Series (the foregoing, together with Mortgage Certificates, "Bond Collateral"). Amounts in the Collection Account for each Series will be invested by the Bond Trustee in certain investments permitted under the Indenture, including, among other investments, obligations of, or guaranteed by the United States or any agency of the United States backed by the full faith and credit of the United States; federal funds; certificates of deposit, guaranteed investment contracts issued by an eligible bank, corporation or other eligible entity; time deposits and banker's acceptances sold by eligible commercial banks; other demand or time deposits or certificates of deposit; and certain repurchase agreements of United States government securities. Such investments will mature on or prior to the next date on which the funds invested are required or may be anticipated to be required to be applied for the benefit of Bondholders, and will thus be available to make required payments on the Bonds. An irrevocable letter of credit may be provided to fund expenses or reserves in order to enhance the initial rating by the independent nationally recognized statistical rating agency rating the Bonds (the "Rating Agency").

7. The cash flow from the Mortgage Certificates securing each Series of Bonds, together with any cash available from debt service reserve funds or reserve funds, will have scheduled cash flows sufficient, when taken together with any reinvestment income thereon from the Collection Account at an assumed reinvestment rate specified in the Indenture, to make timely payments of principal and interest on the Bonds in accordance with their terms. The initial collateral value of the Mortgage Certificates securing a Series of Bonds will be at least equal to the unpaid principal balance of such Bonds on their issue date. Once a Trust has issued all of the Series of Bonds to be issued by

such Trust, Applicant may sell to a limited number of sophisticated institutional or other investors, all or a portion of Trust Certificates representing the beneficial ownership of the Trust.

8. For each Series of Bonds: (a) Each Trust will hold no substantial assets other than the Mortgage Certificates; (b) the Mortgage Certificates will have a collateral value determined under the Indenture, at the time of issuance and following each payment date, equal to or greater than the outstanding principal balance of the Bonds; (c) at the time of issuance of a Series, and after each payment date, distributions of principal and interest received on the Mortgage Certificates securing the Bonds and any applicable reserve funds, plus reinvestment income thereon, will be sufficient to pay all interest due on the Bonds and to retire each Class of Bonds by its stated maturity; and (d) the Mortgage Certificates will be assigned by the Owner Trustee to the Bond Trustee and will be subject to the lien of the related Indenture.

9. A Series of Bonds may provide for mandatory redemptions to the extent that principal payments on the Mortgage Certificates cannot be reinvested at a rate that will provide sufficient income, in addition to scheduled payments on such Mortgage Certificates, to pay required amounts of principal of and interest on such Bonds. Other Series may provide for optional redemptions by the holders of such Bonds or for mandatory redemption by the Issuer, under circumstances described in the prospectus. Except in the event of a default on the Bonds, and then only in limited circumstances, Regular Bondholders will not be entitled to compel the liquidation of the Mortgage Certificates in order to redeem the Bonds prior to maturity.

10. None of the Trusts, Applicant, the Owner Trustee, the owners of the Residual Interests ("Residual Interest Owners"), or the Bond Trustee for a Series will be able to impair the security afforded to the Bondholders of such Series by the Mortgage Certificates. Without the consent of each Bondholder to be affected, none of the above will be able to: (a) Change the stated maturity on any Bonds of such Series (or the manner of determining the rate of interest on any Variable Interest Rate Bonds); (b) reduce the principal amount or the rate of interest on any Bonds; (c) change the priority of payment on any Class of any Series of bonds; (d) impair or affect adversely the Mortgage Certificates securing a Series of Bonds; (e) permit the creation of a lien ranking

⁴ Excess cash flow is the amount remaining in the Collection Account (defined below) for a Series of Bonds after all required distributions and payments under the Indenture are made on a payment date for such Series and which is available for distribution to the owners of Residual Interests pursuant to the terms of the Indenture.

⁶ A Compound Interest Bond is one on which interest is not paid currently but instead is accrued and added to the principal amount of the Bond and is not due or payable until the first payment date specified for such Bond. A Non-Compound Interest Bond is one on which all interest due is paid periodically throughout the life of the Bond. A Zero Coupon Bond is one on which interest will accrue but not be payable until the Bond is paid in full on or prior to its stated maturity. A Fixed Interest Rate Bond is one on which the rate of interest will never adjust. A variable Rate Bond is one on which the interest rate may vary from period to period.

prior to or on a parity with the lien of the related Indenture; or (f) otherwise deprive the Bondholders of such Series of the security afforded by the lien of the related Indenture.

11. The sale of the Residual Interests will not alter the payment of cash flows under the related Indenture, including the amounts to be deposited in the Collection Account or any reserve fund. The interests of the Regular Bondholders will now be comprised or impaired by the ability of the Applicant to sell Residual Interests, and there will not be a conflict of interest between the Regular Bondholders and the Residual Interest Owners, because: (a) The Mortgage Certificates which initially will be deposited into each Trust to secure the Bonds of each Series will not be speculative in nature because they are guaranteed as to timely payment of interest and timely or ultimate payment of interest and timely or ultimate payment of principal by each respective agency; (b) the Bonds of each Series will only be issued provided a Rating Agency has rated such Regular Bondholders in one of the two highest rating categories, which by definition means that the capacity of the Trust to repay principal and interest on the Regular Bondholders is extremely strong; (c) the relevant Indenture under which the Bonds will be issued will subject the Bond Collateral, all income and distributions thereon and all proceeds from a conversion, voluntary or involuntary, of any such collateral to a first priority perfected security interest in the name of the Bond Trustee on behalf of the Bondholders; and (d) the Residual Interest Owners will be entitled to receive current distributions representing the residual payments on the Bond Collateral from each Trust in accordance with the terms of the applicable Trust Agreement. Furthermore, if the Trust does not elect REMIC status with respect to a Series of Bonds, the owners the Trust Certificates ("Owners of Trust Certificates") of such Series of the Trust will be liable for the expenses, taxes and other liabilities of

such Trust (other than the principal and interest on the Bonds) to the extent not previously paid from the Bond Collateral.

12. The choice of the form of issuer for the Bonds and the identity of the owners of the equity interests in the issuer (including the Residual Interest Owners) will not alter in any respect the payments made to the Bondholders, which are payments governed by an Indenture which will meet the requirements of the Trust Indenture Act of 1939, as amended. Moreover, the aggregate interests of the Residual Interest Owners and the expected returns to be earned by such Residual Interest Owners will be far less than the payments made to Regular Bondholders. Applicant does not intend to deposit, in respect of any Series of Bonds, Mortgage Certificates with a collateral value that exceeds 120% of the gross proceeds of the Bonds of such Series.

13. Except to the extent permitted by the limited right to substitute Mortgage Certificates, it will not be possible for the Residual Interest Owners to alter the composition of the Mortgage Certificates initially deposited into a Trust, and in no event will such right to substitute Mortgage Certificates result in a diminution in the value or quality of the Mortgage Certificates. Although it is possible that any substituted Mortgage Certificates may result in a different prepayment experience than the Mortgage Certificates constituting the original Bond Collateral, the interests of the Bondholders will not be impaired because: (a) The prepayment experience of any Mortgage Certificates will be determined by market conditions beyond the control of the Residual Interest Owners, which market conditions are likely to affect all Mortgage Certificates with similar payment terms and maturities in a similar fashion; (b) the interests of the Residual Interest Owners are not likely to be greatly different from those of the Regular Bondholders with respect to Mortgage Certificates prepayment experience; and (c) to the extent that it may be possible for the Owners of the Trust Certificates to cause the substitution of Mortgage Certificates which have a different prepayment experience than the original Mortgage Certificates, this situation is no different for the Bondholders than the traditional collateralized mortgage obligation structure.

Applicant's Legal Conclusions

The requested amended order is necessary and appropriate in the public interest, because: (a) The Applicant as

depositor and the Trusts are not the types of entities, and their activities are not the type of activities, to which the provisions of the 1940 Act were intended to be applied; (b) the proposed businesses of Applicant as depositor and the Trusts are intended to serve a recognized and critical public need; (c) granting of the requested order will be consistent with the protection of investors because they will be protected during the offering and sale of the Bonds by the registration or exemption provisions of the Securities Act of 1933, as amended (the "1933 Act"), and thereafter by the Bond Trustee representing their interests under the Indenture; and (d) the disclosures to the Residual Interest Owners and the limitation of such Residual Interest Owners to no more than 100 sophisticated institutional or non-institutional investors provide adequate safeguards to assure such Residual Interest Owners do not require the protection of the 1940 Act.

Applicant's Condition

Applicant agrees that if an order is granted, it will be expressly conditioned on the following:

A. Conditions Relating to the Bond Collateral

1. Each Series of Regular Bonds will be registered under the 1933 Act, unless offered in a transaction exempt from registration, either pursuant to section 4(2) of the 1933 Act or because such Series of Regular Bonds will come to rest outside the United States, provided that such Regular Bonds are offered and sold outside the United States to non-United States persons in reliance upon an opinion of United States counsel that registration is not required. No single offering of the Regular Bonds sold within and outside the United States would be made without registration of all such Bonds under the 1933 Act without first obtaining a no-action letter permitting such offering or otherwise complying with applicable standards then governing such offerings. In all cases, Applicant will adopt agreements and procedures reasonably designed to prevent such Regular Bonds from being offered or sold in the United States or to United States persons (except as United States counsel may then advise is permissible). Disclosure provided to purchasers located outside the United States will be substantially the same as that provided to United States investors in United States offerings.

2. The Regular Bonds will be "mortgage related securities" within the meaning of section 3(a)(41) of the

*Each Indenture will further specifically provide that no amounts may be released from the lien of the Indenture to be remitted to the Trust (and any Residual Interest Owner) until: (i) The Bond Trustee has made the required payment of principal and interest on the Bonds; (ii) to the extent required by such Indenture, deposits have been made to certain reserve funds; (iii) the Bond Trustee has received all fees currently owed to it; and (iv) the firm of independent accountants has received the fees owed to it under such Indenture. Once amounts have been released from the lien of the Indenture, the Trust Agreement for each Trust provides that the Owner Trustee will have a lien superior to that of the Owners of the Trust Certificates on the remaining cash flow from the Trust property.

Securities Exchange Act of 1934, as amended. In addition, the Mortgage Certificates underlying the Bonds will be limited to GNMA Certificates, FNMA Certificates, or FHLMC Certificates.

3. If new Mortgage Certificates are substituted for Mortgage Certificates initially pledged to secure a Series of Bonds, the substitute Mortgage Certificates must: (a) Be of equal or better quality than the Mortgage Certificates replaced; (b) have similar payment terms and cash flow as the Mortgage Certificates replaced; (c) be insured or guaranteed to the same extent as the Mortgage Certificates replaced; and (d) meet the conditions set forth in conditions (2) and (4). In addition, new Mortgage Certificates may not be substituted for more than 40% of the aggregate face amount of the Mortgage Certificates initially pledged to the Bond Trustee as security for a Series of Bonds. In no event may any new Mortgage Certificates be substituted for any substitute Mortgage Certificates.

4. All Bond Collateral securing a Series of Bonds will be held by the Bond Trustee, or on behalf of the Bond Trustee by an independent custodian. The custodian of the Bond Trustee may not be an affiliate (as the term "affiliate" is defined in Rule 405 under the 1933 Act) of any Applicant, any Trust, or the Owner Trustee. The Bond Trustee will be provided with a first priority perfected security or lien interest in and to all Bond Collateral.

5. Each Series of Regular Bonds will be rated in one of the two highest bond rating categories by at least one Rating Agency that is not affiliated with any of the Trusts or the Applicant. The Bonds will not be considered "redeemable securities" within the meaning of section 2(a)(32) of the 1940 Act.

6. So long as applicable law requires, no less often than annually, an independent public accountant will audit the books and records of each Trust. In addition, as long as any Bonds are outstanding, such accountant will report at least annually on whether the anticipated payments of principal and interest on the Bond Collateral of each Series of Bonds issued by such Trust, continue to be adequate to pay the principal of and interest on the Bonds in accordance with their terms. Upon completion, copies of each of the accountant's reports will be provided to the Bond Trustee.

7. The Bond Collateral securing any Series of Bonds will not be sold or otherwise transferred prior to the release of the Bond Collateral from the lien of the Indenture.

B. Conditions Relating to REMIC Election

8. The election by any Trust either to be treated or cause the arrangement by which the Bond Collateral secures the Bonds to be treated as a REMIC will have no effect on the level of expenses that will be incurred by such Trust. Any such Trust will provide for the timely payment of all fees and expenses to be incurred in connection with the administration of the Trust in a manner satisfactory to each Rating Agency that initially rates the Bonds. Payment of such fees and expenses will be provided for by one or more of the methods set forth in the application.

9. Each Trust will insure that the anticipated level of fees and expenses will be more than adequately provided for regardless of which method or methods are selected by such Trust to provide for the payment of such fees and expenses.

C. Conditions Relating to Variable Interest Rate Regular Bonds

10. Each Class of Variable Interest Rate Regular Bonds will have set maximum interest rates (interest rate caps) which may vary from period to period, as specified in the related prospectus, but which will always be subject to an overall maximum interest rate.

11. At the time of the deposit of the Bond Collateral and during the life of the Bonds of each Series, the scheduled payments of principal and interest to be received by the Bond Trustee on all Mortgage Certificates, plus reinvestment income thereon, and funds, if any, pledged to secure such Series of Bonds will be sufficient to make all payments of principal and interest on the Bonds of such Series then outstanding, assuming the maximum aggregate interest rate for each specified period applicable to Variable Interest Rate Regular Bonds.⁷

⁷ In the case of a Series of Bonds that contains a Class or Classes of Variable Interest Rate Regular Bonds, a number of mechanisms exist to ensure that this representation will be valid notwithstanding subsequent potential increases in the interest rate applicable to such Variable Interest Rate Regular Bonds. Procedures that have been identified to date for achieving this result include the use of: (i) Interest rate caps for the Variable Interest Rate Regular Bonds; (ii) "inverse" Variable Interest Rate Regular Bonds (which pay a lower rate of interest as the rate increases on the corresponding "normal" Variable Interest Rate Regular Bonds); (iii) variable rate collateral to secure the Bonds; (iv) interest rate swap agreements (under which a Trust would make periodic payments to a counterparty at a fixed rate of interest based on a stated principal amount, such as the principal amount of Regular Bonds in the Variable Interest Rate Class, in exchange for receiving corresponding periodic payments from the counterparty at a variable rate of interest based on the same principal amount); (v) hedge agreements

Further, the Mortgage Certificates will be paid down as the mortgages underlying the Mortgage Certificates are repaid, but will not be released from the lien of the Indenture prior to the payment in full of the Bonds.

D. Conditions Relating to the Sale of Residual Interests

12. Applicant will obtain from Greenwich Capital Markets, Inc. its consent to the condition that notwithstanding the sale of Residual Interests, all of the outstanding stock of Applicant (the depositor of each Trust) will continue to be owned by Greenwich Capital Markets, Inc. If the sale of Residual Interests of any Trust results in the transfer of control (as the term "control" is defined in Rule 405 under the 1933 Act) of any Trust, the exemptive relief afforded by an order granted pursuant to the application would not apply to subsequent Bond offerings by any such Trust.

13. Residual Interests will be offered and sold to no more than 100 mortgage lenders, thrift institutions, commercial and investment banks, savings and loan associations, pension funds, employee benefit plans, insurance companies, mutual funds, real estate investment trusts or other institutions that customarily engage in the purchase of mortgages and other types of mortgage collateral ("Eligible Institutions") and non-institutional "accredited investors" (as defined under Rule 501(a) under the 1933 Act). Eligible Institutions will have such knowledge and experience in financial and business matters as to be able to evaluate the risks of purchasing

(including interest rate futures and option contracts, under which the issuer of the Bonds would realize gains during periods of rising interest rates sufficient to cover the higher interest payments that would become due during such periods on the Variable Interest Rate Regular Bonds); and (vi) structuring the transaction so that the weighted average interest rate on the entire Series of Regular Bonds is equal to or less than the weighted average pass-through rate on the Mortgage Certificates securing such Series. It is expected that other mechanisms may be identified in the future. Applicant will give the SEC notice by letter of any such additional mechanisms before they are used, in order to give the SEC an opportunity to raise any questions as to the appropriateness of their use. In all cases, these mechanisms will be adequate to ensure the accuracy of the representations set forth above and will be adequate to meet the standards required for a rating of the Regular Bonds in one of the two highest bond rating categories of the Rating Agency, and no Regular Bonds will be issued for which this is not the case. Whatever method is used for a particular Series, the collateral structure for each Series of Bonds will be reviewed independently by the agency or agencies rating the Bonds (as well as by the independent accountants for the Trust issuing such Series of Bonds) in order to ensure, for the appropriate rating, that the Bond Collateral is sufficient to meet all scheduled payments, as stated above.

Residual Interests and understand the volatility of interest rate fluctuations as they affect the value of mortgages, mortgage-related securities and residual interests therein. Non-institutional accredited investors will be limited to not more than 35, will purchase at least \$200,000 of such Residual Interests and will have a net worth at the time of purchase that exceeds \$1,000,000 (exclusive of their primary residence). Non-institutional accredited investors will have such knowledge and experience in financial and business matters, specifically in the field of mortgage-related securities, as to be able to evaluate the risk of purchasing Residual Interests and will have direct, personal and significant experience in making investments in mortgage-related securities and because of such knowledge and experience, will be able to understand the volatility of interest rate fluctuations as they affect the value of mortgage-related securities and residual interests therein. Mutual funds will continue to be required to satisfy themselves that purchases of Residual Interests comply with the provisions of section 12(d)(1) of the 1940 Act.

14. Each sale of Residual Interests will qualify as a transaction not involving any public offering within the meaning of section 4(2) of the 1933 Act.

15. The Trust Agreement relating to each Trust will prohibit the transfer of any Residual Interest of such Trust if there would be more than 100 Owners of such Residual Interests at any time.

16. Each sale of a Residual Interest will require the ultimate purchaser thereof to represent that it is purchasing for investment and not for distribution and that it will hold such Residual Interests in its own name (or for accounts as to which it exercises sole investment discretion) and not as nominee for undisclosed investors. Each purchaser of a Residual Interest will be required to agree that it will not resell its Residual Interest except to other Eligible Institutions or non-institutional accredited investors in a private placement, and subject to the same representations and undertakings as bind it.

17. No Residual Interest Owner will be affiliated with the Bond Trustee, and no holders of a controlling (as that term is defined in Rule 405 under the 1933 Act) equity interest in the Trust will be affiliated with either the custodian of the Bond Collateral or each Rating Agency rating the Bonds.

E. Special Condition

18. Applicant will secure from each Trust its consent that if the requested order is granted, it agrees to all

representations and conditions in the application regarding such Trusts. The Trust Agreement for each Trust will contain appropriate covenants regarding the Trust's compliance with such representations and conditions.

For the Commission, by the Division of Investment Management, under delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26848 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17203; File No. 812-7396]

The Minnesota Mutual Life Insurance Co., et al.

November 6, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of application for order under the Investment Company Act of 1940 ("Act").

Applicants: The Minnesota Mutual Life Insurance Company ("Minnesota Mutual"), Minnesota Mutual Variable Life Account (the "Account") and MIMLIC Sales Corporation ("MIMLIC Sales").

Relevant 1940 Act Sections: Order requested under section 6(c) exemption Applicants from section 27(f) of the 1940 Act and Rules 27f-1 and 27f-2(b)(13)(viii)(C) thereunder.

Summary of Application: Applicants seek an order to the extent necessary to permit notices of withdrawal rights ("free look" rights) under certain scheduled premium variable life insurance policies to contain information comparable to that required by Form N-271-2 but not in the exact format required by that Form and to permit those free look notices to be hand-delivered to contract owners rather than delivered by way of first class mail.

Filing Date: The Application was filed on October 26, 1989.

Hearing or Notification of Hearing: If no hearing is ordered, the application will be granted. Any interested person may request a hearing on this application, or ask to be notified if a hearing is ordered. Any request must be received by the SEC by 5:30 p.m. on November 30, 1989. Request a hearing in writing, giving the nature of your interest, the reason for the request, and the issues you contest. Serve the Applicants with the request either personally or by mail, and also send it to the Secretary of the SEC, along with proof of service by affidavit, or, for lawyers, by certificate. Request

notification of the date of a hearing by writing to the Secretary of the SEC.

ADDRESSES: Secretary, SEC 450 5th Street, NW., Washington, DC 20549. Applicants, 400 North Robert Street, St. Paul, Minnesota 55101.

FOR FURTHER INFORMATION CONTACT:

Jeffrey M. Unness, Attorney, (202) 272-3027 or Clifford E. Kirsch, Acting Assistant Director at (202) 272-2061 (Division of Investment Management).

SUPPLEMENTARY INFORMATION: The following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person, or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 253-4300).

Applicant's Representations

1. Minnesota Mutual is a mutual life insurance company organized under the laws of Minnesota in 1880. The Account is a separate account of Minnesota Mutual established by Minnesota Mutual's board of trustees on October 21, 1985, to facilitate issuance of certain scheduled premium variable life insurance policies (the "Policies"). On February 10, 1986, the Account was registered under the Act as a unit investment trust. MIMLIC Sales, an indirect wholly-owned subsidiary of Minnesota Mutual, is the principal underwriter for the Account. MIMLIC Sales is registered as a broker-dealer under the Securities Exchange Act of 1934 and is a member of the National Association of Securities Dealers, Inc.

2. Applicants request relief from section 27(f) of the Act and Rules 27f-1 and 27f-2(b)(13)(viii)(C) thereunder to the extent necessary to permit personal delivery to Policy owners of free look right notices which contain information comparable to that required by Form N-271-2, but which are not styled in the rigid format apparently required by that Form. The order requested would permit only relief that is already granted by rule to insurance company separate accounts issuing flexible premium variable life insurance policies and their investment advisers, principal underwriters and depositors. Identical relief has been proposed to be granted by rule to all issuers of scheduled premium variable life insurance policies.

3. The Account is regulated by the Commission as if it were an issuer of periodic payment plan certificates. Accordingly, the Account, Minnesota Mutual as the Account's depositor, and MIMLIC Sales as principal underwriter of the Policies, are deemed to be subject to the provisions of section 27 of the Act.

4. Section 27(f) of the Act, in relevant part, provides in effect that if sales load deductions under a period payment plan are to be made from any payment in an amount greater than 9% of that payment, then each holder of such a certificate must be sent a notice of the charges to be deducted from payments and of his right to withdraw from the plan within 45 days of the mailing of that notice, surrender his certificate and receive his account value plus a return of any amounts deducted from payments prior to investment. Section 27(f) also authorizes the Commission to adopt rules specifying the method, form and contents of the required notice.

5. Rule 27f-1 under the Act sets forth specifications regarding the method of the notice required by section 27(f) and designates Form N-27F-1 as the appropriate form for notices informing periodic payment plan certificate holders of withdrawal rights.

6. Because the Policies are deemed to be periodic payment plans and because more than a 9% sales load ordinarily is deducted from the first year's scheduled premiums under the Policies, Applicants may be deemed to be subject to section 27(f) of the Act and accordingly, absent exemptive relief would be required to comply with the requirements of section 27(f) and Rule 27f-1 thereunder.

7. Rule 6e-2(b)(13)(viii) exempts Applicants from section 27(f) and Rule 27f-1 thereunder, provided, among other things, that purchasers of the Policies are given the right to return the Policy and receive a refund of all payments made for the contract for a period lasting until the later of 45 days from the date of execution of the application for insurance, 10 days after receipt of the Policy and 10 days after receipt of the notice of free look rights and that the notice of free look rights is sent to each purchaser of a Policy on Form N-271-2 by first class mail.

8. There is outstanding a proposal to amend Rule 6e-2(b)(13)(viii)(C) to afford persons issuing and selling scheduled premium variable life insurance policies the same degree of free look notice format and delivery flexibility as presently afforded by Rule 6e-3(T)(b)(13)(viii)(C) in connection with flexible premium policies.

9. Applicants request an order pursuant to Section 6(c) 9f the Act providing exemptive relief necessary to permit them to design and deliver free look notices as if the outstanding proposal to amend Rule 6e-2(b)(13)(viii)(C) had been adopted or as presently afforded by Rule 6e-3(T)(b)(13)(viii)(C).

Applicant's Conditions

Applicants have consented to imposition of the following express conditions on any order granting the relief required in this application.

(a) Applicants will comply with the terms of Rule 6e-2(b)(13)(viii)(C) as that provision has been proposed to be amended in Investment Company Act Release No. 14421 (Mar. 15, 1985).

(b) In the event that the requirements of proposed Rule 6e-2(b)(13)(viii)(C) are changed in the final adoption of any conforming amendments to Rule 6e-2, then, as of the effective date of the amended rule, Applicants either will comply with that provision of Rule 6e-2 as finally adopted or seek additional exemptive relief.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26849 Filed 11-14-89; 8:45 am]

BILLING CODE 8010-01-M

[Rel. No. IC-17205; 812-7411]

Dean Witter American Value Fund, et al.; Application and Temporary Order

November 6, 1989.

AGENCY: Securities and Exchange Commission ("SEC").

ACTION: Notice of Application and Temporary Order under the Investment Company Act of 1940 (the "1940 Act").

Applicants: Dean Witter American Value Fund, Dean Witter California Tax-Free Income Fund, Dean Witter Convertible Securities Trust, Dean Witter Developing Growth Securities Trust, Dean Witter Dividend Growth Securities, Inc., Dean Witter Government Securities Plus, Dean Witter High Yield Securities Inc., Dean Witter Intermediate Income Securities, Dean Witter Managed Assets Trust, Dean Witter Natural Resource Development Securities, Inc., Dean Witter New York Tax-Free Income Fund, Dean Witter Option Income Trust, Dean Witter Strategist Fund, Dean Witter Tax Exempt Securities Trust, Dean Witter U.S. Government Securities Trust, Dean Witter Utilities Fund, Dean Witter World Wide Income Trust, Dean Witter World Wide Investment Trust, Dean Witter Value-Added Market Series, Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust

("Applicant Funds") and Dean Witter Reynolds Inc. ("DWR") (DWR and Applicant Funds are collectively referred to as "Applicants").

Relevant 1940 Act Section: Order requested pursuant to section 11(a) of the 1940 Act.

Summary of Application: Applicants (1) have requested an order pursuant to section 11(a) of the 1940 Act, permitting Applicants and any other registered, open-end management investment company as to which DWR may subsequently serve as investment adviser (collectively, with Applicant Funds, the "DWR Funds") to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraph (b)(5) of rule 11a-3 under the 1940 Act; and (2) have requested that such order be made effective on a temporary basis for thirty days upon the approval, by the SEC, of the issuance of this notice of application.

Filing Dates: The application was filed on October 13, 1989 and amended on October 30, 1989.

Hearing or Notification of Hearing: An order granting the application will be issued unless the SEC orders a hearing. Interested persons may request a hearing by writing to the SEC's Secretary and serving Applicants with a copy of the request, personally or by mail. Hearing requests should be received by the SEC by 5:30 p.m. on November 30, 1989, and should be accompanied by proof of service on the Applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the SEC's Secretary.

ADDRESSES: Secretary, SEC, 450 Fifth Street, NW., Washington, DC 20549. Applicants, Two World Trade Center, New York, New York 10048.

FOR FURTHER INFORMATION CONTACT: Stuart Horwich, Staff Attorney (202) 272-3035 or Karen L. Skidmore, Branch Chief, (202) 272-3023 (Office of Investment Company Regulation).

SUPPLEMENTARY INFORMATION: Following is a summary of the application; the complete application is available for a fee from either the SEC's Public Reference Branch in person or the SEC's commercial copier (800) 231-3282 (in Maryland (301) 258-4300).

Applicants' Representations

1. Applicant Funds are registered under the 1940 Act as open-end,

management investment companies. DWR is a registered broker-dealer and, through its InterCapital Division, provides services to Applicant Funds. It is an investment adviser registered under the Investment Advisers Act of 1940. DWR is the principal underwriter for shares of Applicant Funds other than Dean Witter/Sears California Tax-Free Daily Income Trust, Dean Witter/Sears Liquid Asset Fund Inc., Dean Witter/Sears Tax-Free Daily Income Trust and Dean Witter/Sears U.S. Government Money Market Trust. Those funds are self-distributed.

2. Certain of the DWR Funds may impose a contingent deferred sales charge ("CDSL") on shares redeemed within six years of purchase (the "CDSL Funds"). The rate of the applicable CDSL declines over time, with a 5% CDSL applicable for redemptions within the first year of purchase, and 1% for shares redeemed during the sixth year. DWR receives the proceeds of the CDSL and also receives payments pursuant to plans of distribution adopted by the CDSL Funds pursuant to rule 12b-1 under the 1940 Act ("12b-1 plans"). The DWR Funds received orders of the Commission granting certain exemptions with respect to the imposition of the CDSL.

3. Shares of other DWR Funds are sold with a front-end sales load (the "FESL Funds"). In addition, shares of other DWR Funds are sold without a sales load; however, those which are money market funds (the "Money Market Funds") have adopted 12b-1 plans under which they may bear distribution expenses in amounts up to a maximum of .15% per annum of their respective average net assets. Currently, DWR collects a 12b-1 fee of .10% per annum from the Money Market Funds.

4. In 1984, the Commission issued an order pursuant to section 11(a) of the 1940 Act, permitting exchanges of shares between the CDSL Funds and the Money Market Funds (the "Prior Order"). As described in the application that requested the Prior Order, when shares of a CDSL Fund are exchanged for shares of one of the Money Market Funds, and during the period the Money Market Fund shares so acquired are held, there is a tolling of the holding period used in determining the CDSL to be applied upon redemption of those shares. The Prior Order was amended upon an application in 1987 to expand the types of permitted offers of exchange so as to enable exchanges of shares between the CDSL Funds and the FESL Funds. Under a condition agreed to in obtaining the 1987 amendment to the Prior Order, the DWR Funds agreed

to comply with rule 11a-3 under the 1940 Act "when and if adopted."

5. The Commission's release adopting rule 11a-3 under the 1940 Act (Investment Company Act Release No. 17097) (August 3, 1989) provided that holders of orders pursuant to section 11(a) of the 1940 Act that were conditioned specifically upon compliance with rule 11a-3, if and when adopted, had until 60 days after the date of the rule's publication in the *Federal Register* (i.e., until October 23, 1989) to conform fees and sales loads to the requirements set forth in the rule. Accordingly, absent some type of exemptive relief, the DWR Funds were required to comply with all provisions of rule 11a-3 by October 23, 1989. Other holders of orders pursuant to section 11(a) that were not so conditioned need not conform their fees and sales loads to rule 11a-3 until October 23, 1990.

6. In connection with offers of exchange between the CDSL Funds and the Money Market Funds, paragraph (b)(5) of rule 11a-3 requires that the holding used to determine the CDSL percentage rate applicable upon a redemption of shares include any period of time during which the shares (or the shares exchanged to acquire the redeemed shares) were held as Money Market Fund shares, unless, upon a redemption of shares which result in a CDSL being imposed, a credit is given in an amount equal to the Money Fund 12b-1 fees attributable to such shares (or attributable to Money Market Fund shares previously exchanged to acquire the redeemed shares) (the "12b-1 Credit"). Applicant Funds wish to continue to toll the holding period used in determining the applicable CDSL when shares of the CDSL Fund are exchanged for shares of a Money Market Fund. However, to do so under the terms of paragraph (b)(5) of rule 11a-3, it is necessary to provide the 12b-1 Credit because the Money Market Funds bear distribution expenses pursuant to 12b-1 plans. The decision to provide the credit rather than to cease tolling is based on the view of Applicants that use of the 12b-1 Credit is fairer to shareholders of CDSL Funds who have not exchanged shares than is "tacking" of holding periods which paragraph (b)(5) or rule 11a-3 otherwise requires.

7. Applicants assert that implementation of the 12b-1 Credit requires Applicant Funds' transfer agent to develop a variety of new systems. Those systems could not be written, tested and implemented prior to the October 23, 1989 effective date of rule 11a-3. Thus, absent additional time to comply, Applicant Funds would be

forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds in order not to be in violation of rule 11a-3.¹ In addition, any newly organized DWR Funds which are CDSL Funds, and DWR Funds which are now FESL Funds but which become CDSL Funds, would not be able to offer exchanges for shares of Money Market Funds until the systems necessary to provide the 12b-1 Credit are implemented. A suspension of exchange privileges between the CDSL Funds and the Money Market Funds would be disadvantageous to shareholders of the DWR Funds.

8. Based upon the foregoing, Applicants (1) seek an order of the Commission, pursuant to section 11(a) of the 1940 Act, permitting the DWR Funds and DWR to make certain offers of exchange, until April 23, 1990, without complying with the provisions of paragraph (b)(5) of rule 11a-3 under the 1940 Act; and (2) have requested that an order be issued pursuant to section 11(a) on a temporary basis effective upon the Commission's approval of the issuance of this notice. In making the application, Applicants acknowledge, understand and agree that any order granting the application on a temporary basis shall be without prejudice to, and shall not limit the Commission's right in any manner with respect to, further consideration by the Commission of and action upon the application.

Applicants' Justification For Requested Order

1. Applicants assert that extensive systems modifications are needed to implement the 12b-1 Credit. In essence, the transfer agent systems used for the DWR Funds must be enhanced to permit a calculation of, and to retain information regarding, 12b-1 fees of the Money Market Funds attributable to the account of each investor who exchanges a CDSL Fund's shares for shares of a Money Market Fund. The systems must track this information as to each investor's account through subsequent exchanges, if any, and apply the 12b-1 Credit in the event that a CDSL is determined to be applicable upon redemption of the shares.

2. This systems changes involved in implementing the 12b-1 Credit require modification of over 60 separate

¹ Applicants subsequently received a fourteen-day extension of time in which to comply with paragraph (b)(5) of Rule 11a-3. See Investment Company Rel. No. 17190 (Oct. 23, 1989). This extension was solely for the purpose of preserving the status quo allowing Applicants sufficient time to amend their previously filed application without harming shareholders by disrupting fund operations.

computer programs. This means that numerous programs must each be written and tested. Although the Applicant Funds' transfer agent has committed to make available substantial personnel resources to design and to implement the new systems, it is nevertheless estimated that the scope of required systems modifications is so extensive that it may take a number of months before the systems are operational.

3. Applicants note that by postponing the date by which the DWR Funds become subject to paragraph (b)(5) of rule 11a-3, investors exchanging shares of the CDSL Funds for shares of the Money Market Funds on or after October 23, 1989, but before April 23, 1990, will not be eligible for the 12b-1 Credit. To provide such a credit would require the development of extensive systems to enable retroactive computation of the 12b-1 Credit. Applicants do not believe it cost-effective to their shareholders to develop such systems. In the estimate of DWR, the cost to Applicant Funds of developing these systems could exceed the aggregate benefits that shareholders could reasonably be expected to receive.

4. Applicants submit that the requested order under section 11(a) is appropriate and in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the 1940 Act. They submit that the granting of the requested temporary order is appropriate and justified because, although Applicants began the process of developing the necessary systems modifications required to comply with paragraph (b)(5) of rule 11a-3 promptly upon the publication of the rule, implementation of those modifications by October 23, 1989 was not possible. Absent the requested temporary order being issued prior to that date and the granting of the other requested order, Applicants will be forced to suspend exchange privileges between the CDSL Funds and the Money Market Funds; a result which Applicants believe would be disadvantageous to shareholders of the DWR Funds.

Applicants' Undertakings

Applicants have agreed that the following may be imposed as conditions to the requested order:

1. Except to the extent as may otherwise be permitted under the terms of the requested order, the DWR Funds will have complied and will continue to comply with all requirements of rule 11a-3 as of October 23, 1989.

2. Applicants will monitor and supervise the efforts of their transfer agent in developing the required systems modification in an effort to enable implementation of those modifications, if possible, on or before April 23, 1990.

3. The Money Market Funds will not increase the current levels of their 12b-1 payments during the period they are relying upon the order.

4. Each DWR Fund relying upon the requested order will supplement its prospectus, pursuant to rule 497 under the Securities Act of 1933, to disclose that: (a) Due to the time required to implement the systems modifications necessary to comply with rule 11a-3, the Commission has been requested to issue an order permitting the DWR Funds and DWR to continue to make offers of exchange between CDSL Funds and Money Market Funds, until April 23, 1990, without complying with one provision of the rule; and (b) shares exchanged into the Money Market Funds prior to implementation of the systems modifications will not be eligible to receive the 12b-1 Credit.

5. Each DWR Fund relying upon the requested order will disclose in writing to its shareholders the information set forth in condition 4 above, which disclosure will be made no later than in its next regularly scheduled mailing to shareholders.

6. Applicants will submit to the Division of Investment Management monthly progress reports on the status of the development and implementation of the new systems necessary to permit the DWR Funds to comply with the provisions of paragraph (b)(5) of rule 11a-3.

7. Neither DWR nor the DWR Funds, prior to the implementation of the new systems, will distribute or publish any advertisement or other printed material which discusses the availability of exchange privileges between CDSL Funds and Money Market Funds without disclosing the information set forth in condition 4 above.

8. Except in the cases of requested exchanges of shares not subject to any CDSL and requested exchanges of shares which will be eligible for the 12b-1 Credit, registered representatives of DWR, and shareholder service personnel of DWR and of the transfer agent of the DWR Funds, will be instructed to inform shareholders who request by telephone or in person an exchange of shares of a CDSL Fund for shares of a Money Market Funds during the 30-day period preceding April 23, 1990, that the shares so acquired will not be eligible for the 12b-1 Credit, but would be eligible if the exchange were

effected after April 23, 1990, and Applicants will make a good faith effort to insure that shareholders are informed of the foregoing.

Temporary Order

Based on the foregoing, the Commission has considered the matter and pursuant to section 11(a) of the 1940 Act, has approved for a period of the lesser of 30 days or until such time as the Commission takes final action on the application, Applicants' request to continue making offers of exchange offers that do not comply with paragraph (b)(5) of rule 11a-3. This temporary order is conditioned on Applicants' complying with all of the undertakings described above.

Accordingly, It is ordered, pursuant to section 11(a) of the 1940 Act and subject to the conditions set forth in the application, that the DWR Funds and DWR are hereby permitted to make offers of exchange between CDSL Funds and Money Market Funds without complying with paragraph (b)(5) of rule 11a-3 under the 1940 Act for the lesser of 30 days or until the Commission takes final action on the application.

By the Commission.

Jonathan G. Katz,
Secretary.

[FR Doc. 89-26749 Filed 11-14-89; 8:45 am]
BILLING CODE 8010-01-M

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Continuing Fitness Determination of Air Southeast, Inc.

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of commuter air carrier continuing fitness determination—Order 89-11-12, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Air Southeast, Inc., continues to be fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Department of Transportation, 400 Seventh Street, SW., Room 6401, Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 22, 1989.

FOR FURTHER INFORMATION CONTACT:

Ms. Carol A. Woods, Air Carrier Fitness Division (P-56, Room 6401), U.S. Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-2340.

Dated: November 7, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26718 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-62-M

Fitness Determination; California Air Shuttle

AGENCY: Office of the Secretary, DOT.

ACTION: Notice of commuter air carrier fitness determination—Order 89-11-11, order to show cause.

SUMMARY: The Department of Transportation is proposing to find that Minson Aviation, Inc. d/b/a California Air Shuttle (formerly Qwest Commuter Corp.) continues to be fit, willing, and able to provide commuter air service under section 419(e)(1) of the Federal Aviation Act.

RESPONSES: All interested persons wishing to respond to the Department of Transportation's tentative fitness determination should file their responses with the Air Carrier Fitness Division, P-56, Room 6401, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, and serve them on all persons listed in Attachment A to the order. Responses shall be filed no later than November 22, 1989.

FOR FURTHER INFORMATION CONTACT:

Mrs. Janet A. Davis, Air Carrier Fitness Division, Department of Transportation, 400 Seventh Street, SW., Washington, DC 20590, (202) 366-9721.

Dated: November 7, 1989.

Jeffrey N. Shane,

Assistant Secretary for Policy and International Affairs.

[FR Doc. 89-26719 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-62-M

Federal Aviation Administration

[Summary Notice No. PE-89-43]

Petition for Exemption; Summary of Petitions Received; Dispositions of Petitions Issued

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of petitions for exemption received and of dispositions of prior petitions.

SUMMARY: Pursuant to FAA's rulemaking provisions governing the application, processing, and disposition of petitions for exemption (14 CFR part 11), this notice contains a summary of certain petitions seeking relief from specified requirements of the Federal Aviation Regulations (14 CFR chapter I), dispositions of certain petitions previously received, and corrections. The purpose of this notice is to improve the public's awareness of, and participation in, this aspect of FAA's regulatory activities. Neither publication of this notice nor the inclusion or omission of information in the summary is intended to affect the legal status of any petition or its final disposition.

DATE: Comments on petitions received must identify the petition docket number involved and must be received on or before: December 5, 1989.

ADDRESS: Send comments on any petition in triplicate to: Federal Aviation Administration, Office of the Chief Counsel, Attn: Rules Docket (AGC-10), Petition Docket No. _____, 800 Independence Avenue, SW., Washington, DC 20591.

FOR FURTHER INFORMATION CONTACT:

The petition, any comments received, and a copy of any final disposition are filed in the assigned regulatory docket and are available for examination in the Rules Docket (AGC-10), room 915G, FAA Headquarters Building (FOB 10A), 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-3132.

This notice is published pursuant to paragraphs (c), (e), and (g) of § 11.27 of part 11 of the Federal Aviation Regulations (14 CFR part 11).

Issued in Washington, DC, on November 7, 1989.

Deborah Swank,

Acting Manager, Program Management Staff, Office of the Chief Counsel.

Petitions for Exemption

Docket No.: 25482.

Petitioner: Acme School of Aeronautics.

Regulations Affected: 14 CFR 141.65.

Description of Relief Sought: To extend Exemption No. 4919 that allows petitioner to exercise examining authority for the flight instructor and airline transport pilot written tests. Exemption No. 4919 will expire on March 31, 1990.

Docket No.: 25983.

Petitioner: Federal Express Corporation.

Sections of the FAR Affected: 14 CFR 121.613 and 121.625.

Description of Relief Sought: To relieve the petitioner to the extent that

§§ 121.613 and 121.625 are interpreted to hold that weather reports or forecast, or any combination thereof, which contains conditional statements (e.g., "occasionally," "intermittently," "briefly," or "have a chance of") that weather may be below authorized minimums at the estimated time of arrival at the primary or alternate airport do not satisfy the appropriate dispatch requirements of those sections.

Docket No.: 26040.

Petitioner: United States Parachute Association.

Sections of the FAR Affected: 14 CFR 135.1(c) and 135.251.

Description of Relief Sought: To allow petitioner's members to delay in meeting the requirement to submit an anti-drug testing program until July 1, 1991. Implementation of the plan would be no later than November 1, 1991.

Docket No.: 12638.

Petitioner: Air Transport Association of America.

Regulations Affected: 14 CFR 121.99 and 121.351(a).

Description of Relief Sought/Disposition: To extend Exemption No. 2081, as amended, that allows part 121 operators, subject to certain conditions and limitations, to dispatch aircraft over certain ocean areas with one of the two required high-frequency radios inoperative at the time of departure.

Grant, October 30, 1989, Exemption No. 2081L

Docket No.: 22441.

Petitioner: United Airlines.

Sections of the FAR Affected: 14 CFR 121.433(c)(1)(iii), 121.441(a)(1), and 121.441(b)(1) and part 121, Appendix F.

Description of Relief Sought/Disposition: To amend Exemption No. 3451, as amended, that allows petitioner to conduct an FAA-monitored training program under which petitioner's pilots in command, second in command, and flight engineers meet the annual ground and flight recurrent training requirement and the annual proficiency check requirements, subject to certain conditions and limitations. The amendment would delete three data collection and reporting provisions prescribed in Condition Nos. 12.b.(2), 12.b.(3), and 12.b.(4).

Grant, October 31, 1989, Exemption No. 3451E

Docket No.: 25307.

Petitioner: Precision Airlines.

Regulations Affected: 14 CFR 135.429(a), 135.435, and 135.443.

Description of Relief Sought/Disposition: To extend Exemption No. 4867 that allows petitioner to use its German-built Dornier DO-228-201 and

DO-228-202 aircraft, certain components, parts, and accessories repaired, overhauled, or otherwise maintained, and inspected by persons outside the United States who do not hold U.S. airman certificates, or have yet to obtain U.S. Foreign Repair Station Certification.

Partial grant, October 31, 1989,

Exemption No. 4867B

Docket No.: 25892.

Petitioner: British Aerospace, Inc.

Sections of the FAR Affected: 14 CFR 67.57 (c) and (d); 61.58 (c)(1) and (d); 61.63(d) (2) and (3); 61.67(d)(2); 61.157(e) (1) and (2); Appendix A of part 61; and Appendix H of part 121.

Description of Relief Sought/Disposition: To allow petitioner and those persons who contract for petitioner's services to use FAA-approved Phase II simulators to meet certain experience, training, and checking requirements of part 61.

Partial grant, November 3, 1989,

Exemption No. 5110

[FR Doc. 89-26768 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Executive Committee Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the Executive Committee meeting to be held December 4, 1989, in the Loews L'Enfant Plaza Hotel, Ballroom Salon A, 480 L'Enfant Plaza, SW., Washington, DC 20024, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks and introductions; (2) approval of the minutes of meeting held September 24, RTCA Paper No. 387-89/EC-1036; (3) Executive Director's Report; (4) Special Committee Activities Report for September-October 1989; (5) approval Special Committee Reports: SC-135 Report, "Environmental Conditions and Test Procedures for Airborne Equipment"; (6) consideration of Proposals to Establish New Special Committees: Proposed revision of SC-167 Terms of Reference; (7) report on EUROCAE Working Group Activities and Planning for Future Work; (8) comments and reports by International Associates present; (9) other business; and (10) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons

wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at anytime.

Issued in Washington, DC, on November 6, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-26769 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Radio Technical Commission for Aeronautics (RTCA); Special Committee 163—Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication; Meeting

Pursuant to section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92-463; 5 U.S.C. App. I), notice is hereby given for the tenth meeting of RTCA Special Committee 163 on Unintentional or Simultaneous Transmissions That Adversely Affect Two-Way Radio Communication on December 13-15, 1989, in the RTCA Conference Room, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005, commencing at 9:30 a.m.

The agenda for this meeting is as follows: (1) Chairman's introductory remarks; (2) approval of minutes of the ninth meeting, RTCA Paper No. 222-89/SC163-89; (3) brief overview of the problem; (4) presentation—Analysis of Simultaneous Transmission Probability—Dr. Breitler; (5) review the proposed final draft of the MOPS, RTCA Paper No. 224-889/SC163-90; (6) assignment of tasks; (7) other business; and (8) date and place of next meeting.

Attendance is open to the interested public but limited to space available. With the approval of the Chairman, members of the public may present oral statements at the meeting. Persons wishing to present statements or obtain information should contact the RTCA Secretariat, One McPherson Square, 1425 K Street, NW., Suite 500, Washington, DC 20005; (202) 682-0266. Any member of the public may present a written statement to the committee at anytime.

Issued in Washington, DC, on November 2, 1989.

Geoffrey R. McIntyre,

Designated Officer.

[FR Doc. 89-26770 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

Federal Highway Administration

Environmental Impact Statement; Adams and Hancock Counties, IL

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for construction of Illinois Route 336 as a four-lane highway. The proposed project will extend from the current northern terminus of Illinois Route 336 [Federal-Aid Primary Route 407 (FAP 407)] near the City of Quincy in Adams County, Illinois, northerly to a point on Illinois Route 94 near the City of Carthage, Hancock County, Illinois. The proposed project would be designated Federal Aid Primary Route 407 (FAP 407).

FOR FURTHER INFORMATION CONTACT:

Mr. F.M. Johnson, District Engineer, Federal Highway Administration, 320 West Washington, 7th Floor, Springfield, Illinois 62701, Phone (217) 492-4600.

Mr. J.W. McCree, District Engineer, Illinois Department of Transportation, District 6, 126 East Ash Street, Springfield, Illinois 62704-4766, Phone (217) 782-7301.

SUPPLEMENTARY INFORMATION: The Proposed Action is to construct Illinois Route 336 as a divided, multi-lane highway facility within Adams and Hancock Counties, Illinois. This project will begin at the existing northern terminus of Illinois Route 336 (FAP 407) near the City of Quincy in Adams County, and run northerly to a point on IL Route 94 (FAP 518) near the City of Carthage, Illinois, in Hancock County, a distance of approximately 32 miles. The proposed improvement may bypass several small communities.

The need for Illinois Route 336 is based on the transportation demands, enhancement of economic development, and improved traffic circulation among communities in the project area.

It is anticipated that the project will be constructed as a limited access expressway. Interchanges or intersections will be provided at all State routes and other major high-volume roadways. Several alignment alternatives will be evaluated for the proposed project including the no-action alternative.

A formal scoping process will be undertaken as a part of this project. The process will include meetings, informal coordination, and review sessions as appropriate. The first Scoping Meeting

with interested government agencies is scheduled for Tuesday, November 21, 1989. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 8, 1989.

F.M. Johnson,

District Engineer, Federal Highway Administration, Springfield, Illinois 62701.

[FR Doc. 89-26793 Filed 11-4-89; 8:45 am]

BILLING CODE 4910-22-M

Environmental Impact Statement; Macon, County, IL, et al.

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for reconstruction of U.S. Route 51 to a four-lane highway. The proposed project will extend from the current southern terminus of the Decatur Bypass near the Village of Elwin in Macon County, Illinois, southerly to a point on U.S. Route 51 immediately south of the City of Pana, Christian County, Illinois. The proposed project would be designated Federal Aid Primary Route 412 (FAP 412).

FOR FURTHER INFORMATION CONTACT:

Mr. P. L. Olson, District Engineer, Federal Highway Administration, 320 West Washington, 7th Floor, Springfield, Illinois 62701, Phone (217) 492-4600.

Mr. J. D. Benson, District Engineer, Illinois Department of Transportation, District 5, Route 133 West, P.O. Box 610, Paris, Illinois 61944, Phone (217) 465-4181.

Mr. J. W. McCree, District Engineer, Illinois Department of Transportation, District 6, 126 East Ash Street, Springfield, Illinois 62704-4766, Phone (217) 782-7301.

SUPPLEMENTARY INFORMATION: The Proposed Action is to reconstruct U.S.

Route 51 to a divided, multi-lane highway within Macon, Shelby, and Christian Counties, Illinois. This highway will begin at the existing southern terminus of the Decatur Bypass near the Village of Elwin in Macon County, and run southerly to a point immediately south of the City of Pana in Christian County, a distance of approximately 35 miles. The proposed improvement will bypass or go through several small communities.

The need for upgrading U.S. Route 51 is based on the transportation demands, safety considerations, enhancement of economic development, and improved traffic circulation among communities in the project area.

The proposed facility is to be constructed as a partial access controlled highway. Interchanges or intersections will be provided at all State routes and other major high-volume roadways. Several alignment alternatives will be evaluated for the proposed project, including utilizing the existing roadway and the no-action alternative.

A formal scoping process will be undertaken as part of this project. The process will include meetings, informal coordination, and review sessions as appropriate. The first Scoping Meeting with interested agencies is scheduled for Tuesday, November 21, 1989. Further details and a scoping information packet may be obtained from one of the contact persons listed above.

To ensure that the full range of issues related to the proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to FHWA or IDOT at the addresses provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Research, Planning, and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: November 7, 1989.

P. L. Olson,

District Engineer, Federal Highway Administration.

[FR Doc. 89-26792 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-22-M

Federal Railroad Administration

[BS-Ap-No. 2909]

CSX Transportation; Public Hearing

The CSX Transportation has petitioned the Federal Railroad

Administration (FRA) seeking approval of the proposed discontinuance and removal of the signal systems from Barboursville to Peach Creek, West Virginia and from FD Cabin to Man, West Virginia. This proceeding is identified as FRA Block Signal Application Number 2909.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on February 1, 1990, in the City Council Chambers (Room 17) of the City Hall located at 800 Fifth Avenue in Huntington, West Virginia.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on November 8, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89-26720 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-06-M

[BS-Ap-No. 2865]

New Jersey Transit Rail Operations and Consolidated Rail Corp.; Public Hearing

The New Jersey Transit Rail Operations and Consolidated Rail Corporation have petitioned the Federal Railroad Administration (FRA) seeking approval of the proposed modification of HX Interlocking at East Rutherford, New Jersey. This proceeding is identified as FRA Block Signal Application Number 2865.

The FRA has issued a public notice seeking comments of interested parties and conducted a field investigation in

this matter. After examining the carrier's proposal and the available facts, the FRA has determined that a public hearing is necessary before a final decision is made on this proposal.

Accordingly, a public hearing is hereby set for 10 a.m. on January 10, 1990, in the Second Floor Hearing Room of the Military Park Building located at 60 Park Place in Newark, New Jersey.

The hearing will be an informal one, and will be conducted in accordance with Rule 25 of the FRA Rules of Practice (49 CFR part 211.25), by a representative designated by the FRA.

The hearing will be a nonadversary proceeding and, therefore, there will be no cross-examination of persons presenting statements. The FRA representative will make an opening statement outlining the scope of the hearing. After all initial statements have been completed, those persons wishing to make brief rebuttal statements will be given the opportunity to do so in the same order in which they made their initial statements. Additional procedures, if necessary for the conduct of the hearing, will be announced at the hearing.

Issued in Washington, DC, on November 3, 1989.

J.W. Walsh,

Associate Administrator for Safety.

[FR Doc. 89-26721 Filed 11-14-89; 8:45 am]

Billing Code 4910-06-M

National Highway Traffic Safety Administration

Denial of Motor Vehicle Defect Petition; Paige Hair

This notice sets forth the reasons for the denial of a petition submitted to the NHTSA under section 124 of the National Traffic and Motor Vehicle Safety Act of 1966, as amended (15 U.S.C. 1381 *et seq.*).

Ms. Paige Hair submitted a petition dated June 23, 1989, requesting the National Highway Traffic Safety Administration to investigate the braking system on 1988 Volvo 240 DL vehicles. Ms. Hair submitted information that the brakes on her vehicle repeatedly failed to release, resulting in the brakes dragging and severely overheating. However, no evidence was submitted with the petition to indicate a pattern of brakes failing to release with these vehicles.

The vehicle manufacturer believes in the case of Ms. Hair's vehicle, the brakes were dragging because the braking system had been damaged from improper installation of an after market anti-theft device. The device hooks onto

the brake pedal and the steering wheel. Volvo believes that the brake pedal had been pulled up to install the device. Pulling on the brake pedal may dislocate the brake pressure rod from the vacuum booster and deflect the brake pedal support bracket.

A review of the braking complaints in the agency's files and in the manufacturer's files submitted in response to evaluation of this petition reveals a very low number of complaints of brakes seizing or dragging. No defect trend that would be associated with brakes failing to release is evident. It was concluded that there was not a reasonable possibility that an order concerning the notification and remedy of a safety-related defect in relation to the alleged brake failure would be issued at the conclusion of an investigation. Since no evidence of a safety-related defect trend was discovered, further commitment of resources to determine whether such a trend may exist does not appear to be warranted.

Therefore, the petition is denied.

Authority: Sec. 124, Pub. L. 93-492; 88 Stat. 1470 (15 U.S.C. 1410a); delegations of authority at 49 CFR 1.50 and 501.8.

Issued on: November 8, 1989.

George L. Parker,

Associate Administrator for Enforcement.

[FR Doc. 89-26754 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-59-M

Research and Special Programs Administration

Office of Hazardous Materials Transportation; Applications for Renewal or Modification of Exemptions or Applications To Become a Party to an Exemption

AGENCY: Research and Special Programs Administration, DOT.

ACTION: List of applications for renewal or modification of exemptions or application to become a party to an exemption.

T2summary: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. This notice is abbreviated to expedite docketing and public notice. Because the sections affected, modes of transportation, and the nature of application have been shown in earlier Federal Register publications, they are

not repeated here. Except as otherwise noted, renewal application are for extension of the exemption terms only. Where changes are requested (e.g. to provide for additional hazardous materials, packaging design changes, additional mode of transportation, etc.) they are described in footnotes to the application number. Application numbers with the suffix "X" denote renewal; application numbers with the suffix "P" denote party to. These applications have been separated from the new applications for exemptions to facilitate processing.

DATES: Comments must be received on or before November 29, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION: Copies of the applications are available for inspection in the Dockets Branch, Room 8426, Nassif Building, 400th Street, SW., Washington, DC.

Application No.	Applicant	Renewal of exemption
3302-X	Air Products and Chemicals, Inc., Allentown, PA.....	3302
3996-X	Stauffer Chemical Company, Shelton, CT ¹	3996
4600-X	Great Lakes Chemical Corporation, El Dorado, AR.....	4600
4850-X	Halliburton Company, Duncan, OK.....	4850
5861-X	HTL/Kin-Tech Division of Pacific Scientific Co., Duarte, CA.....	5861
5951-X	Jones Chemicals, Incorporated, LeRoy, NY.....	5951
6045-X	Viskase Corporation, Chicago, IL.....	6045
6309-X	Freeman Chemical Corporation, Port Washington, WI.....	6309
6602-X	Great Lakes Chemical Corporation, El Dorado, AR.....	6602
6602-X	Jones Chemicals, Incorporated, LeRoy, NY.....	6602
6602-X	Ethyl Corporation, Baton Rouge, LA.....	6602
6691-X	Linde Gases of New England, Inc., West Hartford, CT.....	6691
6691-X	Linde Gases of The Southeast, Inc., Wilmington, NC...	6691
6691-X	Linde Gases of Florida, Tampa, FL.....	6691
6691-X	Linde Gases of The Midwest, Inc., Hillside, IL.....	6691
6691-X	Linde Gases of The West, San Ramon, CA.....	6691
6691-X	Linde Gases of The South, Inc., Houston, TX.....	6691
6691-X	Linde Gases of The Great Lakes, Inc., Cleveland, OH...	6691
6691-X	Linde Puerto Rico, Inc., Gurabo, PR.....	6691

Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption	Application No.	Applicant	Renewal of exemption
6996-X	Union Carbide Industrial Gases, Inc., Danbury, CT	6691	7928-X	Alaska Marine Hwy System, State of Alaska, Juneau, AL	7928	9884-X	Puritan-Bennett Corporation, Indianapolis, IN	9884
6691-X	Linde Gases of The Mid-Atlantic, Moorestown, NJ	6691	7929-X	Trojan Corporation, Spanish Fork, UT	7929	9889-X	Assmann Corporation of America, Garrett, IN	9889
6691-X	UNIGAS, Inc., Mercedita, PR	6691	7929-X	Austin Powder Company, Cleveland, OH	7929	10142-X	Tuscarora Plastics, Inc., Reston, VA ¹	10142
6735-X	Great Lakes Chemical Corporation, El Dorado, AR	6735	7947-X	Westinghouse Electric Corporation, Pittsburgh, PA	7946	10165-X	U.S. Olympic Festival '90, Saint Paul, MN	10165
6743-X	Atlas Powder Company, Dallas, TX	6743	8096-X	Amrol Inc., West Warwick, RI ²	8096	¹ To renew and authorize an alternate non-DOT specification metal drum for shipment of phosphoric anhydride, classed as a corrosive material. ² To authorize an optional pressure vessel design for shipment of certain non-flammable gases. ³ To authorize certain liquefied gases; authorize additional type tubing and alloy in construction and modify certain test criteria for non-DOT specification steel cylinders similar to DOT spec. 3E. ⁴ To authorize certain modifications for acoustic emission testing of cylinders for shipment of non-flammable gases and to modify reporting criteria. ⁵ To authorize an alternative use of a modified top closure on a polyethylene portable tank for shipment of certain corrosive materials, flammable liquids or oxidizers. ⁶ To renew and increase maximum volume of cylinder from 10 cubic inches to 80. ⁷ To authorize shipment of those flammable liquids and corrosive liquids authorized to be shipped in a DOT Specification 12A or 12B fiberboard box.		
6746-X	Bridgeport/Firestone, Inc., Akron, OH	6746	8156-X	Scott Specialty Gases, Inc., Plumsteadville, PA	8156			
6765-X	L'Air Liquide Corporation, Le Blanc-Mesnil, France	6765	8162-X	Structural Composites Industries, Pomona, CA	8162			
6765-X	Teisan Kabushiki Kaisha, Tokyo, Japan	6765	8213-X	Trailmaster Tanks, Incorporated, Fort Worth, TX	8213			
6908-X	U.S. Department of Defense, Falls Church, VA	6908	8239-X	Texas Instruments, Inc., Dallas, TX	8329			
6908-X	Garrett Fluid Systems Division, Tempe, AZ	6908	8354-X	VIG Vereinigte Tanklager and Transportmittel GmbH, Hamburg, West Germany	8354			
6971-X	Chem Service, Inc., West Chester, PA	6971	8390-X	Ashland Oil Inc., Columbus, OH	8390			
6985-X	U.S. Department of Energy, Washington, DC	6985	8565-X	AT Plastics, Inc., Brampton, Ont., Canada	8465			
7024-X	B.I. Transportation, Inc., Burlington, NC	7024	8516-X	Atlas Powder International, Limited, Pearlinton, MS	8516			
7052-X	Wilson Greatbatch Ltd., Clarence, NY	7052	8558-X	L'Air Liquide, Paris, France	8558			
7052-X	Sippican Ocean Systems, Inc., Marion, MA	7052	8770-X	Eastman Kodak Company, Rochester, NY	8770			
7053-X	GE Reuter-Stokes, Twinsburg, OH	7052	8811-X	Aqualon Company, Wilmington, DE	8811			
7052-X	General Motors Corporation, Warren, MI	7052	8811-X	Hoechst Celanese Corporation, Somerville, NJ	8811			
7052-X	Moli Energy Limited, Burnaby, B.C., Canada	7052	8843-X	GOEX, Inc., Cleburne, TX	8843	4453-P	Lilly Explosives Company, Inc., Pemberton, WV	4453
7052-X	Tadiran Electronics Industries, Port Washington, NY	7052	8843-X	Owen Oil Tools, Inc., Fort Worth, TX	8843	4453-P	Gibson Explosives Products, Inc., Duffield, VA	4453
7052-X	ENDECO, Inc., Marion, MA	7052	8944-X	Union Carbide Corporation, Danbury, CT ⁴	8944	4884-P	Linde Gases of The Northwest, Portland, OR	4884
7052-X	Dukane Corporation/Seacom Division, St. Charles, IL	7052	8978-X	Battery Engineering, Inc., Boston, MA	8978	5643-P	Linde Gases of The Northwest, Portland, OR	5643
7052-X	Altus Corporation, San Jose, CA	7052	9043-X	Ozella Harrington Trucking Company, Benson, AZ	9043	6349-P	Linde Gases of The Northwest, Portland, OR	6349
7052-X	Sperry-Sun Drilling Services, Inc., Houston, TX	7052	9070-X	Warner Brothers, Inc., Sunderland, MA	9070	6418-P	Nysa Coop Supply, Nysa, OR	6418
7052-X	Teledyne Systems Company, Northridge, CA	7052	9072-X	Thiokol Corporation/Space Operations, Brigham City, UT	9072	6691-P	Linde Gases of The Northwest, Portland, OR	6691
7052-X	U.S. Department of Energy, Washington, DC	7052	9116-X	Hoover Group, Inc., Beatrice, NE ⁵	9116	6765-P	Linde Gases of The Northwest, Portland, OR	6765
7052-X	Tadiran Ltd., Rehovot, Israel	7052	9134-X	RTZ Chemicals/ISC Division, Bristol, England	9134	6874-P	Mine Chemical Services, Inc., Winnemucca, NV	6874
7052-X	Beta Phase, Inc., Menlo Park, CA	7052	9176-X	Minnesota Valley Engineering, Inc., New Prague, MN	9176	7052-P	Starburst Electronics Inc., Calgary, Alberta, Canada	7052
7052-X	Whittaker-Yardney Power Systems, Waltham, MA	7052	9211-X	Waterman Steamship Corporation, New Orleans, LA	9211	7052-P	FME Corporation, dba Friden Alcatel, Hayward, CA	7052
7052-X	Geophysical Research Corporation, Tulsa, OK	7052	9281-X	Western Atlas International, Inc., Houston, TX	9281	7052-P	K Power Electronics (division of Kent Electronics), Houston, TX	7052
7052-X	Rayovac Corporation, Madison, WI	7052	9364-X	Platte Chemical Company, Greeley, CO	9364	7052-P	Ansum Enterprises, Inc., Boca Raton, FL	7052
7052-X	MODICON, Inc., North Andover, MA	7052	9525-X	Cyanamid Canada, Inc., East Willowdale, Canada	9525	7274-P	Linde Gases of The Northwest, Portland, OR	7274
7060-X	Central Skyport Inc., Columbus, OH	7060	9525-X	American Cyanamid Company, Wayne, NJ	9525	7607-P	Science Applications International Corporation, McLean, VA	7607
7485-X	State of Alaska, Department of Transportation, Juneau, AK	7465	9596-X	L'Air Liquide, Sassenage, France	9596	7835-P	Linde Gases of The Northwest, Portland, OR	7835
7541-X	E.I. du Pont de Nemours & Company, Inc., Wilmington, DE	7541	9723-X	BD Technology, Inc., Arcadia, CA	9723	8156-P	Linde Gases of The Northwest, Portland, OR	8156
7607-X	Smith & Denison, Inc., Hayward, CA	7607	9723-X	GSX Chemical Services, Inc., Columbia, SC	9723	8228-P	Central Intelligence Agency, Washington, DC	8228
7621-X	Great Lakes Chemical Corporation, El Dorado, AR	7621	9785-X	Atlantic Container Line, South Plainfield, NJ	9785	8236-P	Mazda Motor of America, Inc., Irvine, CA	8236
7638-X	Minnesota Valley Engineering, Inc., New Prague, MN ⁶	7638	9785-X	Compagnie Generale Maritime, Paris, France	9785	8445-P	Eldredge, Inc., West Chester, PA	8445
7770-X	Eurotainer US, Inc., New York, NY	7770	9791-X	Pressed Steel Tank Company, Inc., Milwaukee, WI	9791	8556-P	Linde Gases of The Northwest, Portland, OR	8556
7891-X	Farchan Laboratories, Inc., Gainesville, FL	7891	9877-X	Syston Donner, Concord, CA ⁷	9877	8723-P	Econexpress, Wheaton, IL	8723

Application No.	Applicant	Parties to exemption
8862-P	Linde Gases of The North-west, Portland, OR	8862
8988-P	Wedge Wireline, Inc., Arlington, TX	8988
9034-P	Linde Gases of The North-west, Portland, OR	9034
9047-P	Linde Gases of The North-west, Portland, OR	9047
9414-P	Linde Gases of The North-west, Portland, OR	9414
9507-P	Linde Gases of The North-west, Portland, OR	9507
9689-P	American Cyanamid Company, Wayne, NJ	9689
9694-P	Thatcher Company, Salt Lake City, UT	9694
9750-P	Econexpress, Wheaton, IL	9750
9785-P	ABC Containerline N.V., Antwerp 2030 Belgium	9785
9946-P	Linde Gases of The North-west, Portland, OR	9946
10001-P	Linde Puerto Rico, Inc., Gurabo, Puerto Rico	10001
10001-P	Unigas Welding Supplies, Mercedita, PR	10001
10001-P	Linde Gases of The Southern California, Inc., Santa Ana, CA	10001
10001-P	Linde Gases of Florida, Tampa, FL	10001
10001-P	Linde Gases of The South, Inc., Houston, TX	10001
10001-P	Linde Gases of The West, San Ramon, CA	10001
10022-P	Linde Puerto Rico, Inc., Gurabo, Puerto Rico	10022
10022-P	Unigas Welding Supplies, Mercedita, PR	10022

Application No.	Applicant	Parties to exemption
10022-P	Linde Gases of Florida, Tampa, FL	10022
10022-P	Linde Gases of New England, West Hartford, CT	10022
10022-P	Linde Gases of The South, Inc., Houston, TX	10022
10022-P	Linde Gases of The North-west, Portland, OR	10022

This notice of receipt of applications for renewal of exemptions and for party to an exemption is published in accordance with part 107 of the Hazardous Materials Transportations Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 8, 1989.

J. Suzanne Hedgepeth,

Chief, Exemptions Branch, Office of Hazardous Materials Transportation.

[FR Doc. 89-26756 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

Office of Hazardous Materials Transportation; Applications for Exemptions

AGENCY: Research and Speical Programs Administration, DOT.

ACTION: List of applicants for exemptions.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, exemptions from the Department of Transportation's Hazardous Materials Regulations (49 CFR part 107, subpart B), notice is hereby given that the Office of Hazardous Materials Transportation has received the applications described herein. Each mode of transportation for which a particular exemption is requested is indicated by a number in the "Nature of Application" portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo-only aircraft, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before December 15, 1989.

ADDRESS COMMENTS TO: Dockets Branch, Research and Special Programs Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Dockets Branch: Room 8426, Nassif Building, 400 7th Street, SW., Washington, DC.

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10264-N	Reagent Chemical & Research, Inc., Port Neches, TX.	49 CFR 179.200-18	To authorize use of lead frangible discs on nonpressure tank cars to be used in transporting aqueous hydrochloric acid, classed as corrosive material. (mode 2)
10265-N	Linco-Electromatic, Inc., Midland, TX.	49 CFR 173.119, 173.304, 173.315	To manufacture, mark, and sell a non-DOT Specification pressure vehicle (a mechanical displacement meter prover mounted on a truck or trailer) for transportation of various hydrocarbon products classed as combustible liquids, flammable liquids and flammable gases. (mode 1)
10266-N	Mobil Pipe Line Company, Dallas, TX.	49 CFR 173.119	To authorize transportation of flammable liquids in meter provers having nominal water capacity from between 110 not to exceed 700 gallons. (mode 1)
10267-N	Belick Enterprises, Inc., Schaumburg, IL.	49 CFR 173.268, 178.212-1	To authorize shipment of nitric acid, 67-71%, classed as oxidizer in non-DOT Specification paper faced expanded polystyrene board box similar to the DOT Specification 12R container except for having a nominal board thickness of .21 inch. (mode 1)
10268-N	Biefa-Felser GmbH, Attendorf, Germany.	49 CFR 173.346	To authorize manufacture, marking and sale of non-DOT Specification 55 gallon aluminum drums for shipment of allyl isothiocyanate classed as a poison B. (modes 2, 3)
10269-N	E.I. du Pont de Nemours and Company, Wilmington, DE.	49 CFR 172.2(a), 173.24(c)(1)	To authorize shipment of haz. materials (other than class A or B explosives or radioactive materials) in a package (other than compressed gas cylinder or a package of more than 450 liters capacity) marked with the UN packaging symbol & appropriate markings required by Annex I of the IMDG code. (modes 1, 2, 3)
10270-N	High Island Offshore System, Sabine Pass, TX.	49 CFR 172.200, 175.30	To authorize shipping certification for methane and helium gas sample cylinders to be executed from a main production platform rather than from each of 95 offshore platforms. (mode 4)
10271-N	McOCO, Inc., Houston, TX.	49 CFR 172.101, 173.54, 175.30	To authorize transport of certain class A, B, and C explosives by cargo air which are forbidden for shipment by air or exceed authorized quantity limitation prescribed for air shipment. (mode 4)
10272-N	Olin Chemicals, Charleston, TN.	49 CFR 173.315	To authorize shipment of a 50% strength aqueous solution of hypochlorous acid, classed as a nonflammable gas in a lined DOT Specification MC 331 insulated cargo tank of not over 4500 gallons capacity with minimum design pressure of 500 psig. (mode 1)
10273-N	Georgia-Pacific Corporation, Schenectady, NY.	49 CFR 173.154, 173.217, 173.245b, 173.365.	To manufacture, mark and sell non-DOT Specification nonreusable fiber-board bulk box with a polyethylene film liner for shipment of certain flammable, corrosive poison B or oxidizer solids. (mode 1)

Application No.	Applicant	Regulation(s) affected	Nature of exemption thereof
10274-N	Chemtech Industries, Inc., St. Louis, MO.	49 CFR 173.299.....	To authorize shipment of etching acid, liquid, n.o.s., classed as a corrosive material in 5000 gallon capacity, lined, MC-312 cargo tanks. (mode 1)
10275-N	Degussa Corporation, Ridgefield Park, NJ.	49 CFR 173.266(e).....	To authorize hydrogen peroxide solution not exceeding 52 percent contained in DOT Specification 57 portable tanks to be offered for shipment with other materials in the same truck by common carrier and/or private carriers. (mode 1)
10276-N	Great Lakes Chemical Corporation, El Dorado, AR.	49 CFR 173.252(a)(4).....	To authorize shipment of bromine, classed as a corrosive material in DOT Specification MC-310 or MC-312 cargo tanks with a polyvinylidene fluoride lining. (mode 1)
10277-N	Amtrol Inc., West Warwick, RI.....	49 CFR 175.30, 178.51, Part 173 Subpart G.	To manufacture, mark and sell non-DOT Specification cylinder for shipment of those commodities presently authorized in DOT Specification 39 cylinders. (mode 1, 2, 4)
10278-N	Taymar Limited, Stockport, Cheshire, England.	49 CFR 173.304(d), 178.33.....	To authorize shipment of non-DOT Specification non-refillable metal containers for shipment of Butane or liquefied petroleum gas, classed as flammable gas. (mode 1, 3)
10279-N	Flexcon Industries, Randolph, MA.....	49 CFR 173.306(g)(1), part 172, subparts D, E.	To manufacture, mark, and sell non-DOT specifications steel water pump system tanks for shipment of air compressed or nitrogen, classed as nonflammable gas. (mode 1, 2, 3)

This notice of receipt of applications for new exemptions is published in accordance with part 107 of the Hazardous Materials Transportation Act (49 U.S.C. 1806; 49 CFR 1.53(e)).

Issued in Washington, DC, on November 8, 1989.

J. Suzanne Hedgepeth,
Chief, Exemptions Branch, Office of
Hazardous Materials Transportation.

[FR Doc. 89-26755 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-60-M

ADDRESS: Send any comments to D. Louise Bennett, Disclosure Officer, Bureau of the Public Debt, E Street Building, Room 515, Washington, DC 20239-0001. Copies of all written comments will be available for public inspection and copying at the Department of the Treasury Library, Room 5030, Main Treasury Building, Washington, DC 20220.

FOR FURTHER INFORMATION CONTACT: D. Louise Bennett, Disclosure Officer (202) 376-4307.

SUPPLEMENTARY INFORMATION: The Bureau of the Public Debt has decided to install a Controlled Access Security System at its facility in Parkersburg, West Virginia. This system will upgrade the security of its building and its computer facility. This system controls entrance to designated areas.

Persons covered by the system are Bureau of the Public Debt employees requiring access to designated areas; contractor and service company employees; and official visitors to the Bureau of the Public Debt. Information will be maintained on magnetic media and paper and will consist of the name; card number; work shift; access level; time, date, and location of each use of the access card at a proximity card reader. The system will not infringe upon any individual's privacy rights because of the security protections and the disclosure restrictions imposed by the Privacy Act.

A new system report, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Office of Management and Budget (OMB) and Congress pursuant to Appendix I to OMB Circular A-130, "Federal Agency Responsibilities for Maintaining Records About Individuals," dated December 12, 1985.

Treasury/BPD.004

SYSTEM NAME:

Controlled Access Security System.

SYSTEM LOCATION:

Bureau of the Public Debt,
Parkersburg, West Virginia.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Bureau of the Public Debt employees, employees of contractors and service companies, and official visitors.

CATEGORIES OF RECORDS IN THE SYSTEM:

A record is created for each access to designated areas and contains the individual's name; card number; work shift; access level; time, date, and location of each use of the access card at a proximity card reader.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

31 U.S.C. Sec. 321; 41 CFR 101-20.103.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

A record or information from a record maintained in this system may be disclosed as a routine use: (1) To appropriate Federal, State, local or foreign agencies responsible for investigating or prosecuting the violations of, or for enforcing or implementing a statute, rule, regulation, order, or license; (2) to a Federal, State, or local agency maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of a security clearance, license, contract, grant, or other benefit; (3) to a court, magistrate, or administrative

DEPARTMENT OF THE TREASURY

Fiscal Service

Privacy Act of 1974; New System of Records

AGENCY: Fiscal Service, Bureau of the Public Debt, Treasury.

ACTION: Notice of new system of records: Treasury/BPD.004—Controlled Access Security

SUMMARY: The purpose of this document is to give notice under the provisions of the Privacy Act of 1974, as amended, that the Bureau of the Public Debt proposes to add a new system of records: Treasury/BPD.004—Controlled Access Security System. The Bureau's systems of records were last published on March 1, 1988, at 53 FR 6252. The new system will contain the name, card number, access level, and other information about Bureau employees and other persons who are authorized to enter the Bureau's Parkersburg, West Virginia facility.

DATE: Comments must be received no later than December 15, 1989. The new system of records will become effective January 16, 1990 unless comments dictate otherwise.

tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, or in connection with criminal law proceedings, or in response to a subpoena; (4) to a Congressional office in response to an inquiry made at the request of the individual to whom the record pertains; (5) to unions recognized as exclusive bargaining representatives under the Civil Service Reform Act of 1978, 5 U.S.C. 7111 and 7114, arbitrators and other parties responsible for the administration of the Federal labor-management program if needed in the performance of their authorized duties.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Magnetic media and paper records.

RETRIEVABILITY:

Information on individuals can be retrieved by name or card number.

SAFEGUARDS:

Both the central system and the peripheral system will have limited accessibility. Paper records and magnetic disks are maintained in locked file cabinets with access limited to those personnel whose official duties require access, such as the systems manager, Bureau security officials, and employee relations specialists. Access to terminals is limited through the use of passwords to those personnel whose official duties require access, as for paper records.

RETENTION AND DISPOSAL:

The retention period is for three years; then the records are destroyed.

SYSTEM MANAGER AND ADDRESS:

Director, Division of Administration, Savings Bond Operations Office, 200 Third Street, Parkersburg, West Virginia 26106-1328.

NOTIFICATION PROCEDURE:

Address inquiries and initial requests for correction of records to: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328.

RECORD ACCESS PROCEDURES:

Individuals who wish to request access to records relating to them or who wish to request correction of records they believe to be in error should submit such requests pursuant to the procedures set out below in compliance with the applicable regulations (31 CFR part 1, subpart C). Requests which do not comply fully with

these procedures may result in noncompliance with the request, but will be answered to the extent possible.

Requests for Access to Records: (1) A request for access to records should be in writing, signed by the individual concerned, identify the system of records, and clearly indicate that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The request should be submitted to the following: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328. (3) The request must state whether the requester wishes to be notified that the record exists or desires to inspect or obtain a copy of the record. If a copy of the record is desired, the requester must agree to pay the fees for copying the documents in accordance with 31 CFR part 1, subpart C. (4) Requests for records concerning a deceased or incapacitated individual should be accompanied either by evidence of the requester's appointment as legal representative of the estate or by a statement attesting that no such representative has been appointed and giving the nature of the relationship between the requester and the individual.

Requests for Correction of Records: (1) A request by an individual for correction of records should be in writing, signed by the individual involved, identify the system of records, and clearly state that the request is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) The initial request should be submitted to the following: Director, Division of Administration, Savings Bond Operations Office, Parkersburg, West Virginia 26106-1328. (3) The request for correction should specify: (a) The dates of records in question, (b) the specific records alleged to be incorrect, (c) the correction requested, and (d) the reasons therefor. (4) The request must include any available evidence in support of the request.

Appeals from an Initial Denial of a Request for Correction of Records: (1) An appeal from an initial denial of a request for correction of records must be in writing, signed by the individual involved, identify the system of records, and clearly state that it is made pursuant to the Privacy Act of 1974. The Bureau reserves the right to require additional verification of an individual's identity. (2) An appeal must, to be handled under the Privacy Act procedures, be addressed to the

following: Commissioner, Bureau of the Public Debt, Washington, DC 20239-0001 (or as otherwise provided for in the applicable appendix to 31 CFR part 1, subpart C), within 35 days of the individual's receipt of the initial denial of the requested correction. (3) An appeal must also specify: (a) The records to which the appeal relates, (b) the date of the initial request made for correction of the records, and (c) the date that the initial denial of the request for correction was received. (4) An appeal must also specify the reasons for the requester's disagreement with the initial denial of correction and must include any applicable supporting evidence.

CONTESTING RECORD PROCEDURES:

See "Notification Procedure" and "Record Access Procedures."

RECORD SOURCE CATEGORIES:

The individual concerned, his/her supervisor, or an official of the individual's firm or agency.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Dated: November 6, 1989.

Linda Combs,

Assistant Secretary of the Treasury (Management).

[FR Doc. 89-26821 Filed 11-14-89; 8:45 am]

BILLING CODE 4810-40

Internal Revenue Service

Privacy Act of 1974; Proposed New System of Records

AGENCY: Internal Revenue Service, Treasury.

ACTION: Notice of proposed new system of records.

SUMMARY: Pursuant to the requirements of the Privacy Act of 1974, the Internal Revenue Service gives notice of a new system of records entitled the Expert Witness Library—Treasury/IRS 90.018. The Expert Witness Library is being established to assist in locating and hiring experts for use in future trials. The Library is also intended to provide IRS attorneys with commentary on the effectiveness of experts used in prior cases by evaluating: (1) Performance on cross-examination; (2) written reports submitted; and (3) assistance given during trial preparation. Information in the records will enhance the IRS's ability to select appropriate and effective expert witnesses for litigation.

DATES: Comments must be received no later than December 15, 1989. The new

system of records will become effective January 16, 1990.

ADDRESS: Comments should be sent to Tax Shelter Branch, Tax Litigation Division, Internal Revenue Service, Room 4507, 1111 Constitution Ave., NW., Washington, DC 20224; Attn: Chief, Tax Shelter Branch.

FOR FURTHER INFORMATION CONTACT: Marsha Keyes, Attorney, Tax Litigation Division, (202) 566-4174, Internal Revenue Service, Office of Chief Counsel, Room 4507, 1111 Constitution Ave., NW., Washington, DC 20224.

SUPPLEMENTARY INFORMATION:

ESTABLISHMENT OF NEW SYSTEM OF RECORDS

The Expert Witness Library is being established to assist IRS attorneys in locating and hiring expert witnesses for litigation. It will also enhance the IRS's ability to effectively litigate cases by aiding in the selection of expert witnesses. The Expert Witness Library contains the names of individuals who have acted as expert witnesses for the government and against the government in various tax cases. The records are maintained by individuals' names and areas of expertise.

Treasury/IRS 90.018

SYSTEM NAME:

Expert Witness Library—Treasury/IRS

SYSTEM LOCATION:

Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch, 1111 Constitution Ave., NW., Washington, DC 20224.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Potential expert witnesses for tax litigation in a variety of areas of expertise.

CATEGORIES OF RECORDS IN SYSTEM:

Names, addresses, and phone numbers of expert witnesses who have been used either by IRS or taxpayers in litigation. The library also contains evaluations of the performance of each expert, copies of transcripts where experts have testified and copies of the experts' reports.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 301, 26 U.S.C. 7801, 26 U.S.C. 7802, 26 U.S.C. 7802, 26 U.S.C. 7805(a).

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

(1) Disclosure of returns and return information may be made only as provided by 26 U.S.C. 6103. (2) To disclose information to the Department of Justice in connection with requests for legal advice. (3) To disclose information to a federal, state, or local agency, maintaining civil, criminal or other relevant enforcement information or other pertinent information, which has requested information relevant to or necessary to the requesting agency's or the bureau's hiring or retention of an individual, or issuance of or retention of a security clearance, license, contract, grant, or other benefit. (4) To disclose information to a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to opposing counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations, in response to a subpoena where relevant or potentially relevant to the proceeding. (5) To provide information to a congressional office in response to an inquiry made at the request of the individual to whom the record pertains. (6) To provide information to third parties during the course of an investigation to the extent necessary to obtain information pertinent to the investigation.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and magnetic media.

RETRIEVABILITY:

Indexed by name and subject matter expertise.

SAFEGUARDS:

Access is limited to employees who have a need for such records in the course of their work. Furthermore, access to the paper files is controlled by a designated attorney in the Tax Shelter Branch. Access to the expert witness library indices on magnetic media are controlled by the Tax Shelter Branch.

The Tax Shelter Branch is locked during nonworking hours. All facilities where records are stored have access limited to authorized personnel or individuals in the company of authorized personnel. Background checks are made on employees. The safeguards will not be less than provided by the Physical Security Handbook, IRM 1(16)41.

RETENTION AND DISPOSAL:

The records will be periodically updated to reflect changes and maintained as long as needed.

SYSTEM MANAGER(S) AND ADDRESS:

Assistant Chief Counsel (Tax Litigation), National Office, Tax Shelter Branch, 1111 Constitution Ave., NW., Washington, DC 20224.

NOTIFICATION PROCEDURE:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch.

RECORD ACCESS PROCEDURE:

Individuals seeking access to any record contained in the system of records, or seeking to contest its content, may inquire in accordance with instructions appearing at 31 CFR part 1, subpart C, appendix B. Inquiries should be addressed to the Assistant Chief Counsel (Tax Litigation), National Office, Attn: Tax Shelter Branch.

CONTESTING RECORDS PROCEDURES:

26 U.S.C. 7852(e) prohibits Privacy Act amendment of tax records.

RECORD SOURCE CATEGORIES:

Attorneys working for the IRS and expert witnesses themselves.

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

Date: November 8, 1989.

Linda M. Combs,
Assistant Secretary of the Treasury
(Management).

[FR Doc. 89-26822 Filed 11-14-89; 8:45 am]

BILLING CODE 4830-01-M

Sunshine Act Meetings

Federal Register

Vol. 54, No. 219

Wednesday, November 15, 1989

This section of the FEDERAL REGISTER contains notices of meetings published under the "Government in the Sunshine Act" (Pub. L. 94-409) 5 U.S.C. 552b(e)(3).

FARM CREDIT ADMINISTRATION

Farm Credit Administration Board;
Special Meeting

AGENCY: Farm Credit Administration.

ACTION: Notice is hereby given, pursuant to the Government in the Sunshine Act (5 U.S.C. 552b(e)(3)), of the forthcoming special meeting of the Farm Credit Administration Board (Board).

DATE AND TIME: The special meeting of the Board will be held at the offices of the Farm Credit Administration in McLean, Virginia, on November 21, 1989, from 10:00 a.m. until such time as the Board concludes its business.

FOR FURTHER INFORMATION CONTACT: David A. Hill, Secretary to the Farm Credit Administration Board, (703) 883-4003, TDD (703) 883-4444.

ADDRESS: Farm Credit Administration, 1501 Farm Credit Drive, McLean, Virginia 22102-5090.

SUPPLEMENTARY INFORMATION: This meeting will be closed to the public pursuant to exemptive provisions of the Government in the Sunshine Act. The matters to be considered at the meeting are:

Closed Session*

1. Compensation Guidelines for Chief Executive Officers of Farm Credit Institutions and the Federal Farm Credit Banks Funding Corporation;

2. Chief Executive Officers' Compensation Requests from Farm Credit Institutions; and

3. Salary Scale Requests from Farm Credit Institutions.

* Session closed to the public—exempt pursuant to 5 U.S.C. 552b(c) (6), (8) and (9).

Dated: November 13, 1989.

David A. Hill,

Secretary, Farm Credit Administration Board.

[FR Doc. 89-27005 Filed 11-13-89; 3:22 pm]

BILLING CODE 6705-01-M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

November 9, 1989.

TIME AND DATE: 10:00 a.m., Thursday, November 16, 1989.

PLACE: Room 600, 1730 K Street, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following:

1. *Beaver Creek Coal Company*, Docket No. WEST 88-145-R. (Issues include whether the operator is entitled to declaratory relief and to attorney's fees and costs.)
2. *Dennis Wagner v. Pittston Coal Group, et al.*, Docket No. VA 88-21-D. (Issues include whether MSHA and its agents are "persons" under section 105(c) of the Mine Act and are subject to the discriminatory prohibitions of section 105(c).)

Any person intending to attend this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs. Subject to 29 CFR 2706.50(a)(3) and 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean

Ellen (202) 653-5629/(202) 708-9300 for TDD Relay, 1-800-877-8339 (Toll Free), Jean H. Ellen,

Agenda Clerk.

[FR Doc. 89-26930 Filed 11-13-89; 12:35 pm]

BILLING CODE 6735-01-M

INTERSTATE COMMERCE COMMISSION

Commission Voting Conference

TIME AND DATE: 10:00 a.m., Tuesday, November 21, 1989.

PLACE: Hearing Room A, Interstate Commerce Commission, 12th & Constitution Avenue, NW., Washington, DC 20423.

STATUS: The purpose of the conference is for the Commission to discuss among themselves, and to vote on, the agenda item. Although the conference is open for the public observation, no public participation is permitted.

MATTERS TO BE DISCUSSED:

Ex Parte No. 346 (Sub-No. 24)

Rail General Exemption Authority—Miscellaneous Manufactured Commodities;

Ex Parte No. 230 (Sub-No. 7)

Improvement of TOFC/COFC Regulation (Pickup and Delivery); and

No. W-1465

Viking Starship, Inc., Common Carrier Application

CONTACT PERSON FOR MORE

INFORMATION: A Dennis Watson, Office of Government and Public Affairs, Telephone: (202) 275-7252.

Noreta R. McGee,

Secretary.

[FR Doc. 89-26948 Filed 11-13-89; 2:15 pm]

BILLING CODE 7035-01-M

NATIONAL TRANSPORTATION BOARD**AGENDA**

TIME AND DATE: 9:30 a.m. Tuesday,
November 21, 1989.

PLACE: Board Room, Eighth Floor, 800
Independence Avenue, SW.,
Washington, DC 20594.

STATUS: The first six items are open to
the public. The last item is closed under
Exemption 10 of the Government in
Sunshine Act.

MATTERS TO BE CONSIDERED:

1. Marine Accident Report: Collision
Between Swedish Auto Carrier FIGARO and
French Tankship CAMARGUE, Galveston
Bay Entrance, November 10, 1988.

2. Recommendation to DOT: Uniform
Postaccident Drug and Alcohol Testing
Regulations Among DOT Modal
Administrations.

3. Recommendation to Association
American Railroads: Freight Car Truck Side
Frames Modified Using Friction Bearings to
Roller Bearings.

4. Withdrawal of Recommendation to the
Association of American Railroads: Freight
Car Truck Side Frames Modified Using
Friction Bearings to Roller Bearings.

5. Board Policy: Calendaring of Notation
Items.

6. Acting Chairman Kolstad's and Member
Burnett's Letters to the Federal Aviation
Administration dated October 27, 1989.

7. Opinion and Order: Administrator v.
Rothbart and Vorhees, Docket SE-9043 and
9060; disposition of Administrator's appeal.

**NEWS MEDIA PLEASE CONTACT BETTY
SCOTT (202) 382-6600.**

FOR MORE INFORMATION CONTACT: Bea
Hardesty, (202) 382-6525.

Dated: November 9, 1989.

Bea Hardesty,

Federal Register Liaison Officer.

[FR Doc. 89-26972 Filed 11-13-89; 2:16 pm]

BILLING CODE 7533-01-M

Federal Register

Wednesday
November 15, 1989

Part II

Department of Housing and Urban Development

Office of the Assistant Secretary for
Community Planning and Development

24 CFR Part 511

Rental Rehabilitation Grants; Final Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

Office of the Assistant Secretary for Community Planning and Development

24 CFR Part 511

[Docket No. R-89-1441; FR-2558-F-02]

RIN 2506-AA88

Rental Rehabilitation Grants

AGENCY: Office of Community Planning and Development, HUD.

ACTION: Final rule.

SUMMARY: This rule implements sections 150(b) and 150(f) of the Housing and Community Development Act of 1987 (the 1987 Act). Section 150(b) amends the United States Housing Act of 1937 (the 1937 Act) to make eligible for immediate rental rehabilitation grant assistance, publicly owned real property that will be privately owned upon completion of rehabilitation. Section 150(f) was intended to clarify when non-profit corporations are considered eligible to own rental rehabilitation grant-assisted projects. With respect to publicly owned properties made eligible by section 150(b), the rule establishes a reasonable deadline for project completion, including transfer to private ownership (two years and 90 days after commitment). The rule further specifically requires grantees to reimburse their grant accounts if the rehabilitation is not completed or the project is not privately owned by the end of the specified period. With respect to section 150(f), the rule clarifies HUD's criteria for when a non-profit corporation is considered privately controlled and hence eligible to own rental rehabilitation grant-assisted projects.

FOR FURTHER INFORMATION CONTACT:

Mary Kolesar, Rehabilitation Management Division, Room 7174, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410-7000, telephone (202) 755-5970. (This is not a toll-free number.)

EFFECTIVE DATE: Under section 7(o)(3) of the Department of Housing and Urban Development Act (42 U.S.C. 3535(o)(3)), this final rule cannot become effective until after the first period of 30 calendar days of continuous session of Congress which occurs after the date of the rule's publication. HUD will publish a notice of the effective date of this rule following expiration of the 30-session-day waiting period. Whether or not the statutory waiting period has expired, this rule will not become effective until HUD's separate notice is published announcing a specific effective date.

SUPPLEMENTARY INFORMATION:

Paperwork Reduction Act Statement

The information collection requirements contained in §§ 511.10(g)(3)(i)(A) and 511.10(c)(4) of this final rule have been submitted to the Office of Management and Budget (OMB) for review under the Paperwork Reduction Act of 1980. Expedited review has been requested by December 15, 1989.

Pending approval of these collections of information by OMB and the assignment of an OMB control number, no person may be subjected to a penalty for failure to comply with these information collection requirements. The OMB control number, when assigned, will be announced by separate notice in the *Federal Register*, at the same time that the rule's effective date is published.

Public reporting burden for each of these collections of information is estimated to include the time for

reviewing the instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the documents making up the collection of information. Information on the estimated public reporting burden is provided below. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to the Department of Housing and Urban Development, Rules Docket Clerk, 451 Seventh Street, SW., Room 10276, Washington, DC 20410; and to the Office of Information and Regulatory Affairs, Office of Management and Budget, Washington, DC 20503.

In accordance with 5 CFR 1320.21, data on the information collection requirements contained in this rule is provided as follows.

Proposal. Written agreement to include precommitment rehabilitation costs in the project costs. (24 CFR 511.10(g)(3)(i)(A)). Written agreement to maintain property in private ownership for not less than 10 years. (§ 511.10(c)(4)).

Description of the Need for the Information and Its Proposed Use. The former agreement is needed to provide documentary evidence of the precommitment costs that are eligible rehabilitation costs and to help establish that necessary environmental reviews were timely completed. The latter agreement provides a legally enforceable agreement to ensure that the property remains in private ownership for the duration of the lien or ten years, whichever is greater.

Form Number: None.

Respondents: State and local governments and nonprofit institutions.

The following table discloses the Department's estimated burden for each of these collections of information.

Description	Number of respondents	Frequency of response	Hours per response	Burden hours
Written agreement to include precommitment rehabilitation costs in the project costs. (§ 511.10(g)(3)(i)(A)).....	600	8.8	1	5280
Written agreement to maintain property in private ownership for not less than 10 years. (§ 511.10(c)(4))	600	8.8	0.5	2640

Discussion of the Rule

On June 21, 1989, the Department published a proposed rule (54 FR 26164) to revise 24 CFR part 511 to implement sections 150(b) and 150(f) of the Housing and Community Development Act of 1987.

During the 60 day comment period, the Department received one comment letter. The comment and the

Department's response are discussed below.

The proposed rule included four subjects for change in the Rental Rehabilitation regulations in 24 CFR part 511. One, it implemented section 150(b) of the 1987 Act to make eligible for rental rehabilitation assistance, publicly owned projects that will be privately owned upon completion of the rehabilitation, and it established time

frames within which the rehabilitation and transfer to private ownership must occur (§ 511.10(c)(1)). Two, it implemented section 150(f) to clarify when non-profit organizations are considered privately controlled and eligible to own projects assisted with rental rehabilitation grant amounts (§ 511.10(c)(2)). Three, it spelled out the conditions under which certain project costs incurred prior to a project being

committed in HUD's Cash and Management Information (C/MI) System could later be reimbursed with rental rehabilitation grant amounts (§ 511.10(g)(3)). Four, it required projects assisted with rental rehabilitation grant amounts to remain in privately owned, primarily residential rental use for a period of ten years after completion under a legally enforceable agreement (§ 511.10(c)(4)).

No comments were received on the provisions of the proposed rule relating to non-profit organizations participating in the Rental Rehabilitation Program, the eligibility of precommitment expenses, or the period projects must remain in privately owned, primarily residential rental use. These provisions are substantially unchanged from the proposed rule. However, one clarifying change that should be noted is that the authority in new § 511.10(g)(3) of the final rule, which permits grantees to reimburse owners for "precommitment costs" under certain circumstances is limited to privately owned projects.

The Department received comments from one grantee, New York City (the City), which had been instrumental in the enactment of section 150(b) and which will be utilizing the authority of section 150(b) to rehabilitate publicly owned projects that will be privately owned upon completion of the rehabilitation. The City criticized several provisions of § 511.10(c)(1) of the proposed rule relating to this authority. The Department has revised this final rule to accommodate several of the City's concerns.

As to projects that are publicly owned when the rental rehabilitation assistance commences, the proposed rule set a two-year period for the rehabilitation work to be completed and a 60-day period for documenting the transfer of the property to private ownership. It required the grantee to submit a schedule for each project before it could be set up in HUD's Cash and Management Information (C/MI) System and receive rental rehabilitation assistance. The schedule was subject to the approval of the appropriate HUD field office under review standards specified in the proposed rule, and was to be used as a basis for the field office to monitor the progress of the project. The proposed rule would have permitted rehabilitation of publicly owned projects using rental rehabilitation grant amounts from any available fiscal year grant if the grant amounts were uncommitted as of the effective date of this rule. It would not have covered publicly owned projects if grant amounts had been committed to the

project in the C/MI System before the effective date of this rule, since HUD had permitted such commitments only under special waiver for New York City's "in rem" projects. Under the proposed rule, these projects were to continue to be dealt with under the terms of existing rules and the waiver, i.e., they were required to be completed using other funds and transferred to private ownership before the "committed" funds could be drawn down.

The City made several points addressing all of the elements above. In general, the City believed that § 511.10(c)(1) of the proposed rule would work to discriminate against a particular class of project and specifically, a particular grantee, New York City, by setting up seemingly arbitrary and unnecessary barriers to carrying out Congressional intent.

The City took exception with the proposed rule's requirement to submit a schedule, subject to the field office's approval under the standards in the proposed rule, to establish the actual period reasonably needed to complete the rehabilitation and to transfer the property to private ownership. The City contended that this additional submission and approval requirement is unnecessary, excessively time consuming, and burdensome.

The primary concern to HUD is that grantees complete their projects in a reasonable period of time, so that Rental Rehabilitation funds are not unnecessarily tied up by projects that are subject to delays, whatever the reason, when there are other projects that are ready to proceed. The schedule requirement was merely intended to provide some HUD oversight of the rehabilitation period for projects of a type which have already proven to be difficult to complete. However, in light of the City's views and the desire by HUD not to further burden the City's rehabilitation process with paperwork, the final rule does not require a schedule to be submitted to the field office. Grantees will simply be held to the timeframe required by the regulation, and the field office will use standard monitoring practices to monitor rehabilitation progress.

The City also objected to the proposed rule's two-year period and sixty-day period allowed to complete the rehabilitation and transfer to private ownership, maintaining that this is inconsistent with the existing program regulations which allow a period of four years to expend all funds on a project. The City believed that it is always in the grantee's interest to choose projects that

can be completed in a timely manner and that the two-year and sixty day period seemed arbitrary and discriminatory against New York City.

The City's argument that existing regulations allow a period of up to four years to expend project funds is misleading. Section 511.33(c) of the existing regulations allows four years for all funds from a particular grant year to be expended (five years in the case of states). Although the existing regulation does not expressly specify the time allowed to complete individual projects, a two-year timeframe is implicit. Section 511.33(c) requires that the funds from each rental rehabilitation grant year must be fully committed to projects within two years of grant obligation and must be fully expended within four years of obligation. The funds become subject to deobligation under § 511.33(c) and reallocation under § 511.33(b) if they are not so committed and expended. Technically, under the existing rules, a grantee could take up to four years to complete a project if it commits the funds the first day the grant was available. However, the regulation is clearly implying that two years is the maximum time to complete a project once it is committed, since the regulation provides two additional years beyond the commitment deadline to expend the funds. The Department, in its oversight of the program, has consistently used two years as a reasonable guideline for the time needed to complete the rehabilitation on a specific project.

The Rental Rehabilitation Program was conceived as a way for properties to receive a modest amount of rehabilitation; and a commitment to a project is meant to occur only after the grantee has determined that the project can be completed in a timely manner and the rehabilitation can begin within the 90-day period specified in the definition of "commitment" in § 511.2. In HUD's experience, a project that was ready to proceed when committed, and which would need more than two years to be brought up to standard condition, would be unusual, if not extraordinary. HUD has consistently managed the program from the beginning with a two-year project completion period in mind, and the Department is considering requiring that period for all projects in the pending rulemaking to make the rental rehabilitation interim rule a final rule. The Department, therefore, is not willing to alter significantly its decision to impose a completion and transfer period of approximately two years.

The City further objected to the 60-day period apparently allowed by the

proposed rule to transfer the property to private ownership, maintaining that it has long been acknowledged that there would be a time lag between the rehabilitation and sale of the property and that HUD should continue to work with New York City in a spirit of cooperation to implement the program. The City argues that an additional twelve-month period should be allowed to complete the transfer, and further, that a project should be considered complete when the final draw is made and a Project Completion Report is submitted to HUD, not after the transfer is made.

Although the proposed rule was unartfully drafted to refer to separate rehabilitation and transfer periods, there is really no statutory basis for having two periods in this process. Section 150(b) of the 1987 Act refers to "real property that will be privately owned upon the completion of rehabilitation" (emphasis added). The transfer to an eligible private owner is an integral part of completing the project, not a separate, long-deferrable, step. Furthermore, the completion period for publicly owned projects should be consistent with that for all other projects. However, in addition to the basic two-year period used as a guideline for completion, HUD's Cash and Management Information (C/MI) System already allows a period of 90 days from a project's final draw for a grantee to submit a Project Completion Report. A project, administratively, is not considered complete by HUD until that Report is received. In this final rule, the Department has revised § 511.10(c)(1)(ii)(A)(1) with respect to projects where the commitment occurs on or after the effective date of this final rule to provide a single two-year and ninety-day period within which the final draw must be made and the Project Completion Report must be submitted. Since the Project Completion Report is the vehicle by which the grantee confirms the transfer of the property to private ownership and identifies the owner, the final rule, in effect, extends the overall period for completion and transfer to private ownership by 30 days compared to the proposed rule. Furthermore, a project will be considered complete when the final draw has been made, the full, legally effective transfer to an eligible private owner has occurred (including the long-term agreements with the new owner required by § 511.10(c)(4)), and a Project Completion Report has been submitted to HUD. This is consistent with the intended program requirements for all projects.

HUD recognizes that the City, in some cases, plans to transfer ownership of its publicly owned "in rem" projects to tenant cooperatives eligible for the Rental Rehabilitation Program assistance, rather than to investor-owners. However, whatever the form of private ownership, there is no reason the rehabilitation work and the preparation for transfer to cooperative ownership cannot proceed concurrently. Given the complexities of cooperative ownership, the City could expedite the transfer process by beginning it at the initial commitment of the project, or even prior to formal commitment. The probable tenant-owners could be identified from the beginning and the necessary training and paperwork could be going forward at the same time as the rehabilitation work. A two-year and 90-day period should be sufficient to complete the entire process.

The two-year and 90-day period is a maximum period in which to complete rehabilitation and transfer the project to an eligible private owner. If the rehabilitation were completed in less than two years from the commitment, the transfer and submission of the Project Completion Report would have to occur within 90 days after the final draw. On the other hand, if the final draw occurred more than two years after the commitment, the transfer to an eligible private owner must still occur within the two-year and 90-day period, which means that if the grantee had not already transferred the project, it would have less than 90 days to complete the transfer.

It should also be mentioned that the periods already allowed for use of rental rehabilitation grant amounts for each fiscal year—two years to be committed and four years to be expended—remain in effect. Grant funds not drawn down after four years from obligation continue to be subject to deobligation by HUD in accordance with § 511.33(c). (Under § 511.33(c) HUD, on a case-by-case basis, may approve up to a one year extension any of the specified time period.)

The City further stated that the proposed rule would not implement section 150(b) "retroactively," as was the intent of Congress, because it would not apply to projects that, under special procedures earlier adopted by HUD to accommodate the City, are already committed in the Cash and Management Information (C/MI) System, but for which funds cannot be drawn down until transfer to private ownership under current regulations. The City referred to a letter to Secretary Kemp, dated March 20, 1989, from members of the House

Subcommittee on Housing and Community Development of the Committee on Banking, Finance and Urban Affairs, which generally supports the argument that section 150(b) should be applied retroactively. The proposed rule would have applied retroactively to funds from all previous fiscal years that were not yet committed. It is not clear that the intent of this letter was to support the notion that all funds for projects already committed under different rules should be immediately available for drawdown.

Nevertheless, in drafting the final rule the Department has given the most liberal interpretation to the Congressional intent. The final rule (§ 511.10(c)(1)(A)(2)) allows the drawdown of funds for projects where the commitment had occurred before the effective date of this final rule and that where publicly owned when the commitment occurred. The two-year and 90-day deadline for fully drawing down funds and transferring the project to private ownership does not apply to these projects. The grantee, however, must complete the rehabilitation and transfer the property to an eligible private owner within the period remaining under § 511.33(c) for the expenditure of the rental rehabilitation fiscal year grant amounts, and must submit the Project Completion Report, which identifies the private owner, within 90 days of the final draw.

It should be noted that the requirement to submit a Project Completion Report, identifying the private owner to which the project has been fully and finally legally transferred, within 90 days of the final draw applies to every project, whether or not grant amounts were committed to the project before the effective date of this rule. Should New York City or any other grantee fail to submit a Project Completion Report within 90 days of a final draw, or if the project were publicly owned and the Report failed to include the identity of a legally operational and in-place private owner, the grantee will be suspended and prevented from making further project set-ups in the Cash and Management Information (C/MI) System.

Other Matters

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations in 24 CFR part 50 which implement section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332. The Finding of No Significant Impact is available for public inspection during regular business hours

7:30 am to 5:30 pm weekdays in the Office of General Counsel, Rules Docket Clerk, at the above address.

This rule does not constitute a "major rule" as that term is defined in section 1(b) of Executive Order 12291. Analysis of the rule indicates that it would not: (1) Have an annual effect on the economy of \$100 million or more; (2) cause major increases in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions; or (3) have a significant adverse effect on competition, employment, investment, productivity, innovation, or on the ability of United States-based enterprises to compete with foreign-based enterprises in domestic or export markets.

In accordance with the provisions of 5 U.S.C. 605(b), the Undersigned hereby certifies that this rule does not have a significant economic impact on a substantial number of small entities, because statutorily eligible grantees and State recipients are relatively larger cities, urban counties, or States.

The General Counsel, as the Designated Official under section 6(a) of Executive Order 12612, Federalism, has determined that the policies in this rule would not have Federalism implications and, thus, are not subject to review under the Order. The rule carries out the statutory amendments concerning the eligibility of publicly owned projects that will be privately owned upon completion of the rehabilitation and of non-profit organizations to own rental rehabilitation grant assisted projects.

The General Counsel, as the Designated Official under Executive Order 12606, the Family, has determined that this rule does not have potential significant impact on family formation, maintenance, and general well-being, and, thus is not subject to review under the Order.

This rule was listed as sequence number 1084 in the Department's Semiannual Agenda of Regulations published on October 30, 1989 (54FR 44702, 44727) under Executive Order 12291 and the Regulatory Flexibility Act.

List of Subjects in 24 CFR part 511.

Administrative practice and procedure, Grant programs—housing and community development, Low and moderate income housing, Rental rehabilitation grants, Reporting and recordkeeping requirements.

Accordingly, 24 CFR part 511 is amended as follows:

PART 511—RENTAL REHABILITATION GRANT PROGRAM

1. The authority citation for part 511 continues to read as follows:

Authority: Sec. 17, United States Housing Act of 1937 (42 U.S.C. 1437o); sec. 7(d), Department of Housing and Urban Development Act (42 U.S.C. 3535(d)).

2. In § 511.2, the definition of "commit to a specific local project" is revised to read as follows:

§ 511.2 Definitions.

* * * * *

Commit to a specific local project, or commitment, means:

(a) With respect to a project that is privately owned when the commitment is made, legally binding agreement between a grantee (or in the case of State distributing rental rehabilitation grant amounts to units of local government, a State recipient) and the private owner under which the grantee or State recipient agrees to provide rental rehabilitation grant amounts to the owner for an identifiable rehabilitation project that can reasonably be expected to start rehabilitation within 90 days of the agreement and in which the owner agrees to start rehabilitation within that period; or

(b) With respect to a project that is publicly owned when the commitment is made, the Pre-Rehabilitation Report under the C/MI System for an identifiable rehabilitation project that will start rehabilitation within 90 days of receipt of the Pre-Rehabilitation Report.

Under both paragraph (a) and (b) of this definition, the date HUD receives an acceptable Pre-Rehabilitation Report is deemed to be the date of commitment.

* * * * *

3. In § 511.10, paragraph (c) is revised to read as follows:

§ 511.10 Program requirements.

* * * * *

(c) Eligible and ineligible projects—

(1) *Privately owned real property*—(i) *General.* Rental rehabilitation grant amounts shall only be used to rehabilitate projects that are in private ownership at the time the commitment is made to a specific local project, as defined in § 511.2, or projects that are publicly owned at commitment but will be in private ownership upon submission of the Project Completion Report under the C/MI System established by § 511.74, in accordance with § 511.10(c)(1)(ii).

(ii) *Publicly owned project at the time of commitment.* Rental rehabilitation

grant amounts may be used to assist publicly owned projects under the following conditions:

(A)(1) For a publicly owned project where the commitment to a specific local project occurs on or after *[Insert the effective date of this rule.]*, the grantee—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that it will commence rehabilitation within 90 days of the date of the submission of the Pre-Rehabilitation Report under the C/MI System and that rehabilitation will be completed and the project transferred to an eligible private owner within the time period specified in this paragraph. The period for rehabilitation and transfer to private ownership shall not exceed two years and 90 days from the date of commitment, or the time remaining for expenditure of the rental rehabilitation fiscal year grant amounts proposed to be used for the project in accordance with § 511.33(c), whichever is shorter. The Project Completion Report under the C/MI System identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw, but not later than two years and 90 days after the date of commitment.

(2) For a publicly owned project where the commitment to a specific local project occurred before *[Insert the effective date of this rule.]*, the grantee—taking into consideration: the size of the project; the complexity of the rehabilitation; the anticipated time necessary to identify, and transfer to, an eligible private owner; and other relevant factors—must determine that the rehabilitation will be completed and the project transferred to an eligible private owner within the time remaining for expenditure of the rental rehabilitation fiscal year grant amounts proposed to be used for the project in accordance with § 511.33(c) before drawing. The Project Completion Report identifying the private entity to which ownership has been transferred shall be submitted within 90 days of the final draw.

(B) If the grantee fails to complete the rehabilitation, transfer the property to an eligible private owner (which includes obtaining the agreements from the new owner, required by this part, including § 511.10(c)(4)), and submit the Project Completion Report within the allowable period, then HUD will suspend the grantee's authority to set up any new projects in the C/MI System and may require the grantee to repay to

its grant account in the C/MI System all rental rehabilitation grant amounts drawn down with respect to the project. If payment is not received, HUD may proceed to deobligate up to the full amount of the grantee's remaining uncommitted rental rehabilitation grant amounts, whether or not such grant amounts otherwise are available for deobligation under § 511.33(c). The suspension of set-up authority in this paragraph shall terminate when the grantee has transferred the property to private ownership, as required by this part, and has submitted a Project Completion Report under the C/MI System identifying the private owner, or repays its grant account as required by this paragraph, or HUD lifts the suspension at its discretion.

(C) After the grantee has repaid the grant amounts to its grant account as provided in § 511.10(c)(1)(ii)(B), the grant amounts may be committed and expended by the grantee for new projects within the periods originally allowed for these grant amounts, or deobligated by HUD under § 511.33 or § 511.82 to the same extent as any other grant amounts subject to this part. Grant amounts drawn down for ineligible projects and not repaid to its grant account as prescribed by HUD shall thereafter be treated as a Federal claim against the grantee subject to collection as described in § 511.82(c)(4). HUD may also condition future rental rehabilitation grants, or disapprove said grants, under § 511.21(c) or § 511.82(c) as a result of the grantee's poor performance with respect to projects under this § 511.10(c)(1)(ii).

(2) *Private, non-profit organizations.* Non-profit organizations that are privately controlled are eligible to receive rental rehabilitation grant amounts and own projects under the same terms and conditions as any other private project owner under this part. For purposes of this requirement, non-profit organizations must have governing bodies which are controlled 51 percent or more by private individuals who are acting in a private capacity. For purposes of this provision, an individual is deemed to be acting in a private capacity if he or she is not legally bound to act on behalf of a public body (including the grantee), and is not being paid by a public body (including the grantee) while performing functions in connection with the non-profit organization.

(3) *Primarily residential rental use.* Rental rehabilitation grants shall only be used to rehabilitate projects to be used for "primarily residential rental" uses, as defined in this paragraph and

paragraph (c)(4) of this section. For purposes of this part, a project is used for primarily residential rental purposes if at least 51 percent of the rentable floor space of the project is used for residential rental purposes after rehabilitation, except that in the case of a two-unit building, at least 50 percent of the rentable floor space after rehabilitation must be used for residential rental purposes. "Primarily residential rental" use also includes cooperative or mutual housing that has a resale structure that enables the cooperative to maintain rents affordable to lower income families.

(4) *Continued private, primarily residential rental use.* All projects must remain in eligible private ownership and in primarily residential, rental use for a period of ten years after completion of the rehabilitation (defined as including transfer of the project to private ownership, if applicable, and submission of an acceptable Project Completion Report under the C/MI System), unless the project is sold to another eligible private owner who agrees to continue to manage the property in accordance with Rental Rehabilitation Program requirements for the remainder of the ten-year period, or a hardship exception is approved by the grantee for reasons that occur after completion of the rehabilitation. Each grantee shall execute an agreement with the owner to this effect on or before the date when rental rehabilitation grant amounts are committed to the project. For projects that are publicly owned when the commitment is made, the agreement shall be executed as part of the transfer to private ownership. The grantee shall ensure that the agreement is legally enforceable and that it contains remedies adequate to enforce its provisions. A remedy will be deemed adequate for purposes of this paragraph if it requires the entire amount of the rental rehabilitation grant assistance for the project to be a secondary lien secured by the property, repayable by the owner or any subsequent transferee upon a prohibited sale or use in an amount equal to the entire amount of such assistance, less 10 percent for each full year after completion of the project up to the time the prohibited sale or use occurs, except in the case of projects of 25 units or more, for which the entire grant amount shall be repaid if the project is sold or used in violation of this section during the ten year period. Such lien may not be subordinate to a lien in favor of the grantee, State recipient or any person with whom the owner has business or family ties, except as may

be necessary to secure Federally tax exempt financing for the project.

(5) *Substandard conditions.* Before rehabilitation, a project must have one or more substandard conditions. For purposes of this paragraph, substandard conditions are those housing conditions that do not meet applicable State or local housing codes or do not meet the Section 8 Housing Quality Standards for Existing Housing contained in 24 CFR 882.109. After rehabilitation, each unit in the project meets the Section 8 Housing Quality Standards for Existing Housing contained in 24 CFR 882.109.

(6) *Ineligible Projects.* Projects assisted, or for which a commitment for assistance has been entered into, under the United States Housing Act of 1937 (except projects assisted under the Rental Rehabilitation Program or the Section 8 Existing Housing Program under 24 CFR part 882, subparts A and B, or the Housing Voucher Program under 24 CFR part 887), or projects assisted under section 221(d)(3), 221(d)(4), or 236 of the National Housing Act, section 202 of the Housing Act of 1959, or section 312 of the Housing Act of 1964, are not eligible to receive rental rehabilitation grant amounts under this part.

4. In § 511.10, a new paragraph (g)(3) is added, to read as follows:

§ 511.10 Program requirements.

(g) *Eligible rehabilitation costs.* * * * (3)(i) Rehabilitation eligible under § 511.10(g)(1) is limited to work done after the commitment to the project (as defined in § 511.2) is made and the project is set up in the C/MI System under § 511.74, except to the extent that such costs also meet all of the following conditions:

(A) Prior to undertaking any rehabilitation before the project is committed in the C/MI System (hereafter called "precommitment rehabilitation"), the private owner and grantee have agreed in writing to include such rehabilitation costs in the project cost, if and when the project is approved for assistance under this part;

(B) The precommitment rehabilitation costs were incurred by the owner after the date of the Appropriation Act which made available the grant amounts for the project in question;

(C) The precommitment costs meet all other requirements of this part, including compliance with other Federal requirements cited in § 511.11, where applicable. In particular, HUD approval of the grantee's certification of completion of environmental

responsibilities, where required, must occur prior to execution of the written agreement to include the costs.

(ii) Other project-related costs eligible under § 511.10(g)(2) are also limited to those costs incurred after the commitment to the project is made by the grantee and the project is set up in the C/MI System under § 511.74, except to the extent such costs also meet both of the following conditions:

(A) Prior to undertaking any rehabilitation before the project is committed in the C/MI System (hereafter called "precommitment rehabilitation"), the private owner and grantee have agreed in writing to include such rehabilitation costs in the project cost, if and when the project is approved for assistance under this part;

(B) The costs also meet the conditions stated in paragraphs (B) and (C) of § 511.10(g)(3)(i).

* * * * *

Dated: October 30, 1989.

Anna Kondratas,

*Assistant Secretary for Community Planning
and Development.*

[FR Doc. 89-26708 Filed 11-14-89; 8:45 am]

BILLING CODE 4210-29-M

The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It was founded in 1847 and has since that time been the leading organization of the medical profession in the United States. The Association is composed of more than 50,000 members, who are physicians, surgeons, dentists, and other medical practitioners. The Association's principal activities are the publication of the Journal of the American Medical Association, the holding of annual meetings, and the advocacy of the interests of the medical profession and the public. The Association is also engaged in a wide variety of other activities, including the promotion of medical research, the improvement of medical education, and the advancement of the public health.

The Journal of the American Medical Association is a weekly publication that contains a wide variety of articles on medical topics. The articles are written by leading medical authorities and are of high scientific and clinical value. The Journal is also a forum for the expression of views on medical and public health issues. The Journal is published by the American Medical Association, which is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. The Journal is one of the most important and influential medical journals in the world.

The American Medical Association is a non-profit corporation organized for the purpose of promoting the interests of the medical profession and the public. It was founded in 1847 and has since that time been the leading organization of the medical profession in the United States. The Association is composed of more than 50,000 members, who are physicians, surgeons, dentists, and other medical practitioners. The Association's principal activities are the publication of the Journal of the American Medical Association, the holding of annual meetings, and the advocacy of the interests of the medical profession and the public. The Association is also engaged in a wide variety of other activities, including the promotion of medical research, the improvement of medical education, and the advancement of the public health.

Registered Federal Reporter

**Wednesday
November 15, 1989**

Part III

Department of Transportation

Federal Aviation Administration

14 CFR Part 71

**Establishment and Alteration of Airport
Radar Service Areas; California; Final
Rule**

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Airspace Docket No. 88-AWA-7]

Establishment and Alteration of
Airport Radar Service Areas; CaliforniaAGENCY: Federal Aviation
Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action designates an Airport Radar Service Area (ARSA) at John Wayne Airport/Orange County, Santa Ana, CA, and will adjust the lateral limits of the El Toro Marine Corps Air Station (MCAS) ARSA to accommodate the adjoining Santa Ana ARSA. John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and Limited Approach Control Facility. Establishment of this ARSA will require that pilots maintain two-way radio communication with air traffic control (ATC) while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of a midair collision in terminal areas and promote the efficient control of air traffic.

EFFECTIVE DATE: 0901 u.t.c., January 11, 1990.

FOR FURTHER INFORMATION CONTACT: Betty Harrison, Airspace Branch (ATO-240), Airspace-Rules and Aeronautical Information Division, Air Traffic Operations Service, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267-9255.

SUPPLEMENTARY INFORMATION:**History**

On April 22, 1982, the National Airspace Review (NAR) plan was published in the *Federal Register* (47 FR 17448). The plan encompassed a review of airspace use and the procedural aspects of the air traffic control (ATC) system. The FAA published NAR Recommendation 1-2.2.1, "Replace Terminal Radar Service Areas (TRSA) with Model B Airspace and Service (Airport Radar Service Areas)," in Notice 83-9 (48 FR 34286, July 28, 1983) proposing the establishment of ARSA's at Columbus, OH, and Austin, TX. Those locations were designated ARSA's by SFAR No. 45 (48 FR 50038, October 28, 1983) in order to provide an operational confirmation of the ARSA concept for potential application on a national basis. The original expiration

dates for SFAR 45, December 22, 1984, for Austin and January 19, 1985, for Columbus, were extended to June 20, 1985 (49 FR 47176, November 30, 1984).

On March 8, 1985, the FAA adopted the NAR recommendation and amended Parts 71, 91, 103 and 105 of the Federal Aviation Regulations (14 CFR Parts 71, 91, 103 and 105) to establish the general definition and operating rules for an ARSA (50 FR 9252), and designated Austin and Columbus airports as ARSA's as well as the Baltimore/Washington International Airport, Baltimore, MD (50 FR 9250). Thus far, the FAA has designated 125 ARSA's as published in the *Federal Register* in the implementation of this NAR recommendation.

On February 21, 1989, the FAA proposed to designate an ARSA at John Wayne Airport/Orange County, Santa Ana, CA, and adjust the lateral limits of the El Toro Marine Corps Air Station (MCAS) ARSA to accommodate the adjoining Santa Ana ARSA (54 FR 7506). Interested parties were invited to participate in this rulemaking proceeding by submitting comments on the proposal to the FAA. Additionally, the FAA has held an informal airspace meeting for this proposed ARSA. Section 71.501 of part 71 of the Federal Aviation Regulations was republished in FAA Handbook 7400.6E dated January 3, 1989.

Discussion of Comments

The FAA received 15 comments pertaining to the ARSA proposal. All comments were fully considered before developing the final design contained in this rule. The FAA believes that the final ARSA design best meets ATC and user requirements and promotes the safe and efficient use of airspace.

Some comments received were not relevant to this rulemaking action and, therefore, will not be discussed. The subject areas included are controller staffing, procedures, pilot education and ATC equipment.

Two commenters requested that the southern portion of the ARSA be raised from 2,500 feet mean sea level (MSL) to 3,500 feet MSL. One of the two commenters stated that this will enable him to conduct aerial photographic flights without entering the ARSA. The other commenter offered no reason for his request.

The FAA finds that this portion of airspace is necessary to provide a greater degree of safety for aircraft operating to and from the John Wayne Airport/Orange County. Since most departures are to the south, the ARSA has been designated to enhance safety between departing aircraft and aircraft

traversing along the beach area. When departing to the north, the same concept is applied for arrivals.

The Air Line Pilots Association (ALPA) wrote in support of the Santa Ana ARSA. ALPA suggested that, since the upper altitude of the ARSA varies from 4,400 feet MSL to 5,400 feet, the aeronautical chart be color coded or highlighted to emphasize the difference.

A communication box will appear on the appropriate visual flight rules (VFR) terminal area chart that will inform pilots that the ceiling of the Santa Ana ARSA is not uniform.

One commenter requested that the FAA install a very high frequency omnidirectional radio range (VOR) at the south end of the John Wayne Airport/Orange County to provide a better definition of the Musel Five Standard Instrument Departure (SID) procedure as well as the ARSA.

The Musel Five Departure is a radar vector SID. This procedure is conducted in a radar environment with instructions from air traffic control.

The Santa Ana ARSA is defined using the center of the airport which is referred to as the airport reference point (ARP). In defining the ARSA, the FAA utilizes prominent geographical landmarks to assist pilots in the visual identification of the ARSA boundaries. The FAA believes that these landmarks along with airport visual references provide pilots with sufficient information to navigate within and around the ARSA.

Two commenters requested that the FAA establish a corridor around the John Wayne Airport/Orange County instead of establishing a circular design ARSA.

In designing an ARSA, the FAA's primary concern is to provide the highest degree of safety while preserving the most efficient use of the available terminal airspace. While corridors do provide a degree of safety to aircraft arriving and departing terminal areas, they do not provide adequate airspace to effectively vector and sequence the vast numbers of aircraft served in terminal areas today.

The remainder of the commenters wrote in opposition to the Santa Ana ARSA citing that the ARSA is too restrictive and complicated, and represents a degradation of safety.

The FAA finds that the ARSA program has surpassed expectations in most locations by reducing the potential for midair collisions without unnecessarily penalizing or unduly delaying aircraft in ARSA airspace.

The airspace configuration established by this action has taken into

consideration all aspects of air traffic in the terminal area. This configuration is consistent with the fundamental safety objectives of the ARSA program.

Regulatory Evaluation Summary

This section summarizes the full regulatory evaluation prepared by the FAA which provides more detailed estimates of the economic consequences of this regulatory action. This summary and the full evaluation quantify, to the extent practicable, estimated costs to the private sector, consumers, federal, state and local governments, as well as anticipated benefits.

Executive Order 12291, dated February 17, 1981, directs federal agencies to promulgate new regulations or modify existing regulations only if potential benefits to society for each regulatory change outweigh potential costs. The order also requires the preparation of a Regulatory Impact Analysis of all "major" rules except those responding to emergency situations or other narrowly defined exigencies. A "major" rule is one that is likely to result in an annual effect on the economy of \$100 million or more, a major increase in consumer costs, a significant adverse effect on competition, or is highly controversial.

The FAA has determined that this rule is not "major" as defined in the executive order, therefore a full regulatory analysis, which includes the identification and evaluation of cost-reducing alternatives to the rule, has not been prepared. Instead, the agency has prepared a more concise document, termed a regulatory evaluation, that analyzes this rule without identifying alternatives. In addition to a summary of the regulatory evaluation, this section also contains a final regulatory flexibility determination required by the 1980 Regulatory Flexibility Act (Pub. L. 96-354), and an international trade impact assessment. If more detailed economic information is desired than is contained in this summary, the reader is referred to the full regulatory evaluation contained in the docket.

a. Introduction

This rule is intended to enhance aviation safety by establishing an ARSA at John Wayne Airport/Orange County, Santa Ana, CA. The major findings of the Regulatory Evaluation prepared for this rule are summarized below.

b. Costs

Costs that could result from the establishment of this and other ARSA sites fall into the following categories:

1. Additional controller staffing and training, and ATC equipment costs.

2. Costs associated with the revision of charts, notification of the public, and pilot education.

3. Operating costs for circumnavigating or flying over the ARSA.

4. Potential delay costs resulting from operations within an ARSA.

5. The need for some operators to purchase radio transceivers.

6. Miscellaneous costs.

It has been the FAA's experience that these potential costs do not materialize to any appreciable degree. When they do occur, they are transitional, relatively low in magnitude, or attributable to specific implementation problems that have been experienced at a small minority of ARSA sites. The reasons for these conclusions are presented below.

Participation in Stage II (Radar Advisory and Sequencing for VFR aircraft) at John Wayne Airport/Orange County is already quite high and is expected to be even higher with the implementation of this rule. However, the separation standards permitted in ARSA's will allow controllers to absorb the increase in participating traffic by handling all traffic more efficiently. Thus, the FAA believes that the ARSA program can be implemented without requiring additional controller personnel above present authorized staffing levels.

The FAA does not expect to incur any appreciable implementation costs due to additional air traffic controller training, ATC equipment, or operation procedures. The air traffic controllers now on board at John Wayne Airport/Orange County will require some additional training as a result of this rule. However, this training will be conducted during regularly scheduled briefing sessions routinely held at all facilities. In addition, John Wayne Airport/Orange County already operates the necessary radar equipment needed to bring the ARSA on line. Finally, the FAA will modify its terminal radar procedures in the ARSA program in a manner that will make more efficient use of existing resources.

No additional costs are expected to be incurred because of the need to revise sectional charts to incorporate the new ARSA airspace boundaries. Changes of this nature are routinely made during regular chart publications at 6-month intervals. The effective dates for newly established ARSA's are scheduled to coincide with these publication intervals.

Much of the need to notify the public and educate pilots about ARSA operations will be met as a part of this rulemaking proceeding. The informal public meeting that is held at each location where an ARSA is proposed

provides pilots with the best opportunity to learn both how an ARSA works and how it would affect their local operations. The expenses associated with these public meetings are considered costs of the rulemaking process. However, any public information costs following the establishment of a new ARSA are strictly attributable to the ARSA program. The FAA will distribute a "Letter to Airmen" to all pilots residing within 50 miles of each ARSA site, explaining the operation and configuration of the ARSA finally adopted. The FAA also has issued an Advisory Circular on ARSA's. The combined Letter to Airmen and prorated Advisory Circular costs have been estimated to be approximately \$450 for each ARSA site to be established. This one-time cost is incurred upon the initial establishment of an ARSA.

Various district offices of the FAA will distribute information on ARSA's at aviation safety seminars conducted with the establishment of additional ARSA sites. These seminars are provided regularly by the FAA to discuss a variety of aviation safety issues. Therefore, such seminars will not involve additional costs strictly as a result of the ARSA program. Additionally, no significant costs are expected to be incurred as a result of the subsequent user meetings that are held at each site following implementation of an ARSA. These meetings allow users to provide feedback to the FAA on local ARSA operations. They are held at public or other facilities that are provided free of charge or at a nominal cost. Because these meetings are conducted by local FAA personnel, no travel, per diem, or overtime costs are incurred by regional or headquarters personnel.

The FAA anticipates that some pilots who now transit the terminal area without establishing radio communications or participating in radar services may choose to deviate from their regular flight path in order to circumnavigate the mandatory participation airspace of an ARSA. Pilots could incur some minor delay costs because of the additional aircraft variable operating cost and lost crew and passenger time resulting from the deviation. Other pilots may elect to overfly the ARSA, or transit below the 1,200 feet above ground level (AGL) floor between the 5- and 10-nautical mile rings. Although this may not result in any appreciable delay, a small additional fuel burn will result from the climb portion of the altitude adjustment,

which will be offset somewhat by the descent.

The FAA recognizes the potential for delays to develop at some locations following the establishment of an ARSA. Radar facilities will be handling additional traffic as a result of the mandatory participation requirement. This may result in minor delays to aircraft operations, though the FAA does not expect such delays to be appreciable. The greater flexibility afforded controllers in handling traffic as a result of the reduced separation standards should keep delay problems to a minimum. Those delays that do occur will be transitional in nature and will diminish as facilities gain operating experience with ARSA's and learn how to tailor procedures and allocate resources to take fullest advantage of the efficiencies permitted by ARSA's. This has been the experience at the three locations where ARSA's have been in effect for the longest period of time. It also is the recurring trend at the more recently designated ARSA locations.

The FAA does not expect that any operator will find it necessary to install radio transceivers as a result of establishing the John Wayne Airport/Orange County ARSA. Aircraft operating to and from primary airports already are required to have two-way radio communications capability because of existing airport traffic areas. This potential cost has been minimized by the FAA throughout the ARSA program by providing airspace exclusions, or cutouts, for satellite airports located within 5 nautical miles of the ARSA center, where the floor of the ARSA is at ground level. Procedural agreements between the local ATC facility and the affected airports have also been used to avoid radio installation costs.

The establishment of an ARSA could impose certain costs on users of that airspace. However, exclusions, cutouts, and special procedures have been used extensively throughout the ARSA program to alleviate adverse effects on local fixed-base and airport operators. Similarly, the FAA has eliminated potential adverse effects on flight-training practice areas and activities such as soaring, ballooning, parachuting, ultralight operations, and banner towing. The FAA has developed special procedures to accommodate these activities through local agreements between ATC facilities and the affected organizations. For these reasons, the FAA does not expect any such adverse impact to occur at the ARSA site in this rule.

c. Benefits

Much of the benefit that will result from ARSA's is nonquantifiable and attributable to simplification and standardization of ARSA configurations and procedures. Once experience is gained in ARSA operations, the air traffic controllers will obtain greater flexibility in handling traffic within an ARSA. This experience will enable controllers to move traffic more efficiently and safely. It also could offset the delay that some sites experience after the initial establishment of an ARSA. The John Wayne Airport/Orange County ARSA is expected eventually to provide time savings to all area traffic, instrument flight rules (IFR) and VFR, as both pilots and controllers become more familiar with ARSA operating procedures.

Some of the benefits of the ARSA cannot be specifically attributed to individual candidate airports. Rather, benefits will result from the improvements in terminal area ATC procedures realized as ARSA's are implemented throughout the country. ARSA's have the potential of reducing both near and actual midair collisions at the airports where they are established. Based upon the ARSA experiences at Austin and Columbus, the FAA estimates that near midair collisions may be reduced by 35 to 40 percent. Furthermore, the FAA estimates that the national implementation of the ARSA program may prevent approximately one midair collision every 1 to 2 years throughout the United States. The quantifiable benefits of preventing a midair collision can range from less than \$100,000, due to the prevention of a minor, nonfatal accident between general aviation aircraft, to \$300 million or more, due to the prevention of a midair collision between large air carriers involving numerous fatalities. Establishment of an ARSA at the site in this final rule will contribute to these improvements in safety.

d. Comparison of Costs and Benefits

A direct comparison of the costs and benefits of this rule is difficult for several reasons. Many of the benefits of the rule are nonquantifiable, and it is difficult to attribute the standardization benefits, and the safety benefits, to individual candidate ARSA sites. The FAA expects any adjustment problems that may be experienced at the John Wayne Airport/Orange County ARSA will be only temporary and will result in a general improvement in efficiency in terminal area operations. This has been the experience at the vast majority of ARSA sites that have already been

implemented. In addition, establishment of this ARSA site will contribute to a reduction in near and actual midair collisions. For these reasons, the FAA expects that the establishment of this ARSA site will produce long-term benefits that will far exceed their costs.

International Trade Impact Analysis

This final rule will affect terminal airspace operating procedures at selected airports within the United States. It will affect neither the sale of foreign aviation products or services in the United States, nor the sale of United States aviation products or services in foreign countries.

Regulatory Flexibility Determination

The Regulatory Flexibility Act of 1980 (RFA) was enacted by Congress to ensure that small entities are not unnecessarily and disproportionately burdened by government regulations. Small entities are independently owned and operated small businesses and small not-for-profit organizations. The RFA requires agencies to review rules that may have a significant economic impact on a substantial number of small entities.

The small entities that could be affected by implementation of the ARSA program include fixed-base operators, flight schools, agricultural operators, and other small aviation businesses located at satellite airports within 5 nautical miles of the ARSA center. If the mandatory participation requirement were to extend down to the surface at these airports, where under current regulations radio communication with ATC is voluntary, operations at these airports might be altered, and some business could be lost to airports outside of the ARSA core. The FAA intends to exclude many satellite airports located within 5 nautical miles of the primary airport at candidate ARSA sites, to avoid any adverse impact on their operations and to simplify the coordination of ATC responsibilities between primary and satellite airports. In some cases, the same purposes will be achieved through Letters of Agreement, between ATC and the affected airports, establishing special operating procedures. In this manner, the FAA expects to eliminate any adverse impact on the operations of small satellite airports that could result from the ARSA program. Similarly, the FAA expects to eliminate potentially adverse effects on existing flight-training practice areas, and on soaring, ballooning, parachuting, ultralight operations, and banner-towing activities. The FAA will develop special

procedures that will accommodate these activities through local agreements between ATC facilities and the affected organizations. The FAA has used such arrangements extensively in implementing the ARSA's that have been established to date.

Because the FAA expects any initial delay problems to be transitory, and because the airports affected by the ARSA program represent only a small proportion of public-use airports in operation within the United States, no small entities that use aircraft in their business will be adversely affected.

For these reasons, the FAA has determined that this rulemaking action is not expected to affect a substantial number of small entities. Therefore, the FAA certifies that this regulatory action will not result in a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

Federalism Implications

The regulations adopted herein will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government. Therefore, in accordance with Executive Order 12612, it is determined that this final rule will not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

The Rule

This action designates an ARSA at John Wayne Airport/Orange County, Santa Ana, CA, and will adjust the lateral limits of the El Toro MCAS ARSA to accommodate the adjoining Santa Ana ARSA. John Wayne Airport/Orange County is a public airport with an operating control tower served by a Level V Radar Approach Control Facility and Limited Approach Control Facility. Establishment of this ARSA will require that pilots maintain two-way radio communication with ATC while in the ARSA. Implementation of ARSA procedures at this location will reduce the risk of midair collision in terminal areas and promote the efficient control of air traffic.

For the reasons discussed above, the FAA has determined that this regulation (1) is not a "major rule" under Executive Order 12291; and (2) is not a "significant rule" under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979).

List of Subjects in 14 CFR Part 71

Aviation safety, Airport radar service areas.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me, part 71 of the Federal Aviation Regulations (14 CFR part 71) is amended, as follows:

PART 71—DESIGNATION OF FEDERAL AIRWAYS, AREA LOW ROUTES, CONTROLLED AIRSPACE, AND REPORTING POINTS

1. The authority citation for part 71 continues to read as follows:

Authority: 49 U.S.C. 1348(a), 1354(a), 1510; Executive Order 10854; 49 U.S.C. 106(g) [Revised, Pub. L. 97-449, January 12, 1983]; 14 CFR 11.69.

§ 71.501 [Amended]

2. Section 71.501 is amended as follows:

Santa Ana, CA [New]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the John Wayne Airport/Orange County (lat. 33°40'32" N., long. 117°52'02" W.) excluding that airspace east of a line between the points where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS (lat. 33°40'34" N., long. 117°43'49" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the John Wayne Airport/Orange County, west of a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS, to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS clockwise to the 175° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 1,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 175° bearing clockwise from the 201° bearing from John Wayne Airport/Orange County; and that airspace extending upward from 3,500 feet MSL to and including 5,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the 201° bearing from the airport to the shoreline, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from the John Wayne Airport/Orange County; and that airspace extending upward from 2,500 feet

MSL to and including 4,400 feet MSL within a 10-mile radius of John Wayne Airport/Orange County from the San Diego Freeway clockwise to the 360° bearing from the John Wayne Airport/Orange County, excluding that airspace west of a line from the 351° bearing from John Wayne Airport/Orange County to the 251° bearing from John Wayne Airport/Orange County clockwise to a line from the point where the 5-mile arc of John Wayne Airport/Orange County intercepts the 5-mile arc of El Toro MCAS to the point where the 10-mile arc of John Wayne Airport/Orange County intercepts the 10-mile arc of El Toro MCAS. This airport radar service area is effective during the specific days and hours of operation of the Orange County Tower and Approach Control as established in advance by a Notice to Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

El Toro MCAS, CA [Revised]

That airspace extending upward from the surface to and including 4,400 feet MSL within a 5-mile radius of the El Toro MCAS (lat. 33°40'34" N., long. 117°43'49" W.) excluding that airspace west of a line between the points where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County (lat. 33°40'32" N., long. 117°52'02" W.); and that airspace extending upward from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS from a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of John Wayne Airport/Orange County clockwise to the 005° bearing from the El Toro MCAS, and that airspace from 2,500 feet MSL to and including 4,400 feet MSL within a 10-mile radius of the El Toro MCAS between the 104° bearing from the El Toro MCAS clockwise to a line from the point where the 5-mile arc of El Toro MCAS intercepts the 5-mile arc of John Wayne Airport/Orange County to the point where the 10-mile arc of El Toro MCAS intercepts the 10-mile arc of the John Wayne Airport/Orange County. This airport radar service area is effective during the specific days and hours of operation of the El Toro Tower as established in advance by a Notice of Airmen. The effective dates and times will thereafter be continuously published in the Airport/Facility Directory.

Issued in Washington, DC, on November 8, 1989.

Harold W. Becker,

Manager, Airspace-Rules and Aeronautical Information Division.

[FR Doc. 89-26791 Filed 11-14-89; 8:45 am]

BILLING CODE 4910-13-M

THE HISTORY OF THE
CITY OF BOSTON
FROM 1630 TO 1800
BY
JOHN H. COLEMAN
IN TWO VOLUMES
VOL. I
BOSTON
PUBLISHED BY
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1857

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Vol. 54, No. 219

Wednesday, November 15, 1989

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This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with "P L U S" (Public Laws Update Service) on 523-6641. The text of laws is not published in the **Federal Register** but may be ordered in individual pamphlet form (referred to as "slip laws") from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone 202-275-3030).

H.R. 2916/Pub. L. 101-144

Departments of Veterans Affairs and Housing and Urban Development and Independent Agencies Appropriations Act, 1990. (Nov. 9, 1989; 103 Stat. 839; 36 pages) Price: \$1.25

S.J. Res. 131/Pub. L. 101-145

To designate November 1989 as "National Diabetes Month". (Nov. 9, 1989; 103 Stat. 875; 1 page) Price: \$1.00

S.J. Res. 209/Pub. L. 101-146

To designate November 11, 1989 as "Washington Centennial Day". (Nov. 9, 1989; 103 Stat. 876; 1 page) Price: \$1.00

H.R. 24/Pub. L. 101-147

Child Nutrition and WIC Reauthorization Act of 1989. (Nov. 10, 1989; 103 Stat. 877; 43 pages) Price: \$1.25

H.R. 3012/Pub. L. 101-148

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1990, and for other purposes. (Nov. 10, 1989; 103 Stat. 920; 9 pages) Price: \$1.00

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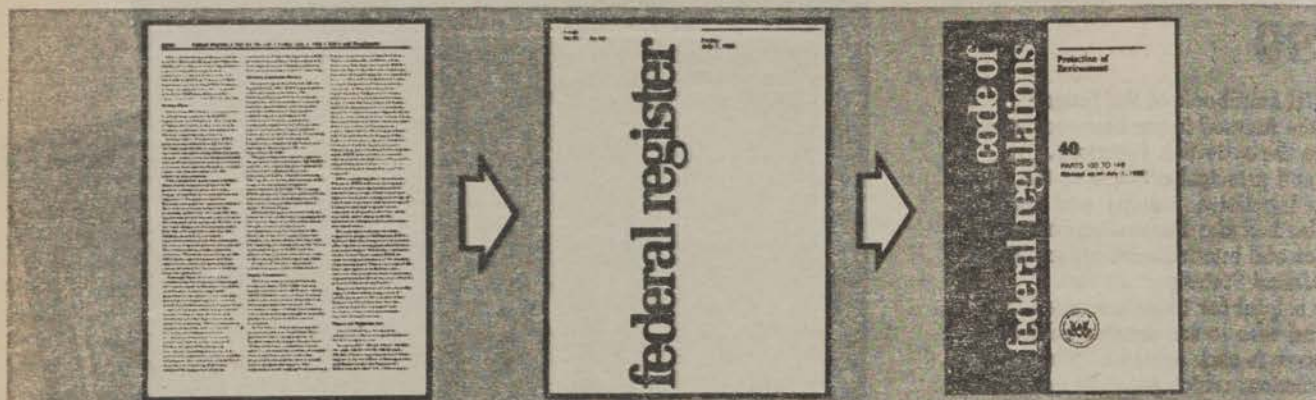
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